Mr. MANN. The House has just voted down a motion to adjourn.

The SPEAKER. That is true; but there is only one of two things to do.

Mr. MANN. There has been no business transacted since.

The SPEAKER. We can not transact business without a quorum, and there are only two motions that can be entertained. One is a motion to adjourn and one is for a call of the House. The Chair recognizes the gentleman from Alabama to make a motion to adjourn.

Mr. MANN. I make the point of order, Mr. Chairman, that the motion to adjourn, just having been voted down, can not be renewed at once without something else having transpired.

Mr. UNDERWOOD. Mr. Speaker, I do not know of any ruling that does not authorize a motion to adjourn to be made immediately after the defeat of another one, except on a proposition as to whether the motion is dilatory. If the gentleman wants to make that point of order, it is for the Speaker to determine whether my motion is dilatory or not.

Mr. MANN. Mr. Speaker, I will withdraw the point of order, in view of the great leadership shown on that side of the House before the gentleman from Alabama [Mr. UNDERWOOD] came in. They do not know whether they are in or not; they do not know whether or not they are in the city.

ADJOURNMENT.

The SPEAKER. The question is on the motion to adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p. m.) the House adjourned until Tuesday, August 18, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Yalobusha River, Miss., up to Grenada (H. Doc. No. 1145); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Grand River, Mich. (H. Doc. No. 1146); to the Committee on Rivers and Harbors and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GRIEST: A bill (H. R. 18397) to provide for the erection of a public building at Columbia, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. WEBB: A bill (H. R. 18398) for the purchase of a site and the erection of a public building at Morganton, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. FALCONER: A bill (H. R. 18399) providing for relief of settlers on unsurveyed railroad lands; to the Committee on the Public Lands.

By Mr. DEITRICK: A bill (H. R. 18400) prohibiting the acceptance of any unreasonable prices for any goods, wares, merchandise, or products of the soil or mines; to the Committee on the Judiciary.

Also, a bill (H. R. 18401) regulating the exportation of goods, wares, merchandise, or products of the soil or mines; to the Committee on the Judiciary.

By Mr. BELL of California: A bill (H. R. 18402) to provide for the erection of a public building at Long Beach, Cal.; to the Committee on Public Buildings and Grounds.

By Mr. BRITTEN: Resolution (H. Res. 595) authorizing the Secretary of State to communicate with the Japanese Government that the United States views with concern the issuance of its ultimatum to Germany; to the Committee on Foreign Affairs.

By Mr. McKELLAR: Joint resolution (H. J. Res. 322) to amend Senate joint resolution 34, approved May 12, 1898, entitled "Joint resolution providing for the adjustment of certain claims of the United States against the State of Tennessee and certain claims against the United States"; to the Committee on Claims.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 18403) granting a pension to Charles E. Faux; to the Committee on Pensions.

By Mr. BAILEY: A bill (H. R. 18404) granting a pension to Sara Gates; to the Committee on Pensions.

By Mr. BRUMBAUGH: A bill (H. R. 18405) to correct the military record of Thomas J. Corriell; to the Committee on Military Affairs.

By Mr. GUDGER: A bill (H. R. 18406) granting a pension to Annie Fredericka Pope Bowles; to the Committee on Pensions.

By Mr. HOBSON: A bill (H. R. 18407) granting an increase of pension to James Wiginton; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 18408) granting an increase of pension to George Ulmer; to the Committee on Invalid Pensions.

By Mr. McANDREWS: A bill (H. R. 18409) granting a pension to Ella E. Swift; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 18410) granting a pension to Ellen T. Harris; to the Committee on Pensions.

Also, a bill (H. R. 18411) granting an increase of pension to Frank R. Porter; to the Committee on Pensions.

Also, a bill (H. R. 18412) granting an increase of pension to James Blackburn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18413) granting an increase of pension to James H. McPherson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18414) granting an increase of pension to Robert Farmer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18415) granting an increase of pension to Isaac Bell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18416) granting an increase of pension to William Forgy; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Memorial of the Chamber of Commerce, Cincinnati, Ohio, approving amendment to the law limiting liability of vessels; to the Committee on the Merchant Marine and Fisheries.

By Mr. HAMILTON of New York: Petition of sundry citizens of Tunesassa, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. HINDS: Petitions of sundry citizens and church organizations of the State of Maine, favoring national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of the executive committee of the Chamber of Commerce of Washington, D. C., protesting against the passage of Senate bill 1624, regulating the construction of buildings along alleyways in the District of Columbia; to the Committee on the District of Columbia.

By Mr. MAGUIRE of Nebraska: Petition of various business men of Murray, Nebr., favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. O'LEARY: Petitions of sundry citizens of Queens County, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. TREADWAY: Memorial of the Pittsfield (Mass.) Board of Trade, opposing legislation affecting American business; to the Committee on the Judiciary.

SENATE.

TUESDAY, *August 18, 1914.*

(Legislative day of Tuesday, August 11, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Norris	Smith, Ga.
Borah	Hitchcock	O'Gorman	Smoot
Brady	James	Overman	Sterling
Bryan	Johnson	Penrose	Stone
Burton	Jones	Perkins	Thomas
Camden	Kenyon	Pittman	Thornton
Chamberlain	Kern	Poindexter	West
Clark, Wyo.	Lane	Pomerene	White
Culberson	Lea, Tenn.	Reed	Williams
Cummins	McCumber	Shafroth	
Dillingham	Martine, N. J.	Sheppard	
Gallinger	Myers	Simmons	

Mr. BRYAN. My colleague [Mr. FLETCHER] is necessarily absent. He is paired with the Senator from Wyoming [Mr. WARREN]. I will let this announcement stand for the day.

Mr. MARTINE of New Jersey. I beg to state that the junior Senator from Mississippi [Mr. VARDAMAN] is detained from the Senate on official business.

Mr. GALLINGER. I was requested to announce a pair between the junior Senator from West Virginia [Mr. GOFF] and the senior Senator from South Carolina [Mr. TILLMAN].

Mr. SHEPPARD. I desire to announce the unavoidable absence of the Senator from Tennessee [Mr. SHIELDS] and his pair with the Senator from Connecticut [Mr. BRANDEGEE]. This announcement will stand for the day.

Mr. DILLINGHAM. I desire to announce the absence of my colleague [Mr. PAGE] on account of illness in his family.

Mr. JONES. I wish to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent and that he is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

I will also state that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is absent on account of illness. I will let this announcement stand for the day.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. SWANSON and Mr. TILLMAN answered to their names when called.

Mr. RANSDELL, Mr. BANKHEAD, and Mr. COLT entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present.

RIVER AND HARBOR APPROPRIATIONS.

Mr. PENROSE. Mr. President, I desire briefly to address an inquiry to the Senator from Indiana [Mr. KERN] or to the acting chairman of the Committee on Commerce, the Senator from North Carolina [Mr. SIMMONS].

I suppose nearly every Senator in this body, regardless of party, is besieged by visitors and in receipt of a large number of telegrams and communications regarding the river and harbor bill. It is a measure of overwhelming importance to nearly every State in the Union. The failure to pass the bill would cause great distress and great actual loss in the delay in pending improvements.

If I may be permitted, I should like to ask the Senator from Indiana whether it is the purpose of the majority in this Chamber to bring up the river and harbor bill before we adjourn this session and have it considered and endeavor to pass it.

Mr. KERN. Mr. President, in answer to the Senator from Pennsylvania I will say that it was announced some time ago authoritatively and correctly that the majority had determined that the river and harbor bill should be disposed of before the adjournment of the present session. There has been no change in that determination.

Mr. PENROSE. Mr. President, in that purpose the majority will have at least my cooperation, and I have no doubt that of a large part of my colleagues in the minority, to pass the bill at the earliest possible date.

Mr. KERN. There was no agreement that the bill should be passed, but that it should be disposed of.

Mr. BORAH. The bill will not likely pass hurriedly. It is a very important bill and should be discussed thoroughly.

Mr. PENROSE. I can not hear the Senator from Idaho.

Mr. BORAH. I say the river and harbor bill will not pass hurriedly through the Senate. There are some of us over here who are quite in favor of a river and harbor bill, but some of these projects will have to be eliminated before the bill gets through with any degree of haste.

Mr. PENROSE. I take it for granted that in bringing up the bill no Senator is pledged to any details. I hope, however, the Senator from Idaho does not contemplate any murderous assault on the Delaware River or the head of the Ohio.

Mr. KERN. Mr. President, in order that there may be no misapprehension from the remark I made, I will state that it was not determined by the majority that any particular river and harbor bill should be passed, but that the river and harbor bill in some form should be disposed of before the adjournment of the session.

Of course, it is understood by many of those who took part in that arrangement that there might be amendments; that there might be eliminations, but the bill in some form will be disposed of.

Mr. BORAH. I have no objection to the program. "Some form" is a very emphatic portion of the program, however.

Mr. PENROSE. I take it the Senator from Idaho is heartily in favor of all irrigation projects.

Mr. BORAH. Yes; and if the Senator from Pennsylvania would put into the river and harbor bill a provision that the money appropriated should be paid back this bill would be killed in very short order by the votes of the men who are now supporting it.

Mr. PENROSE. I know that repayments are always unpopular.

Mr. CUMMINS. Mr. President, I feel constrained to call for the regular order.

PROPOSED ANTITRUST LEGISLATION.

The VICE PRESIDENT. The regular order being called for, the Senate resumes the consideration of House bill 15657.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment of the committee, on page 6, line 12, as amended.

Mr. POMERENE. Mr. President, with the permission of the Senate, I desire to address myself this morning to the so-called labor provisions of the bill.

Mr. CULBERSON. I suggest to the Senator from Ohio that we have not yet reached the labor provisions of the bill, and if it would suit him just as well I would be glad if he would postpone his remarks until we reach that section. We are on section 6.

Mr. POMERENE. If that is the desire of the chairman, I will defer my remarks until later.

Mr. CULBERSON. I would be glad if that would be done.

Mr. POMERENE. I should like during the day to speak upon that matter as soon as the section is reached.

Mr. CULBERSON. The Senator certainly will have an opportunity to do so.

Mr. POMERENE. Under those circumstances I will yield the floor.

The VICE PRESIDENT. The question is on the amendment reported by the committee, on page 6, line 12, as amended.

Mr. BRYAN. Mr. President, on page 6, I move to strike out the words "in equity," in line 13, so that a final judgment or decree may be used as evidence regardless of whether or not the suit was in equity. I see no reason why a distinction should be made between a common-law suit, a criminal prosecution, and a suit in equity in the use of the record.

The VICE PRESIDENT. The question is on the amendment to the amendment proposed by the Senator from Florida.

Mr. CULBERSON. Mr. President, I suggest to the Senator from Florida that it would be better, and make it clearer, if, after the language in line 12, instead of striking out the words "in equity" there were inserted the words "in any criminal prosecution or."

Mr. BRYAN. That is perfectly satisfactory, Mr. President; it accomplishes the same purpose, I think. If my amendment to the amendment should prevail, it would read:

That a final judgment or decree heretofore or hereafter rendered in any suit or proceeding.

Certainly a criminal prosecution is a suit; and the language then would cover all classes of suits, whether they be criminal prosecutions or common-law suits or suits in equity, by simply striking out the words "in equity." I have no objection, however, if the Senator prefers his amendment.

Mr. CULBERSON. We do not ordinarily refer to a criminal prosecution as a suit, I think.

Mr. BORAH. We would not refer to a criminal prosecution as a suit.

Mr. BRYAN. I have always heard it so referred to. I never heard it questioned that it was a suit.

Mr. BORAH. Oh, well, it is not a suit in the sense in which we use that term in referring to a suit in equity.

Mr. BRYAN. However, I am not particular about the phraseology. I think it ought to be so that a record in a criminal suit or prosecution could be used in a subsequent proceeding with the same force and effect as if it had been a suit in equity.

Mr. REED. Mr. President, it occurs to me that the matter suggested by the Senator from Florida—though I am not sure that I am in accord with him—would be covered by inserting, in line 13, between the words "in" and "equity," the words "law or," so that it would read "proceeding in law or equity," and after the word "equity" by inserting "or in any prosecution."

Mr. BRYAN. Mr. President, that is practically the same language as suggested by the chairman of the committee. I understand his suggestion is, in line 12, after the word "rendered," to insert "in any criminal prosecution or," so that it would read:

That a final judgment or decree heretofore or hereafter rendered in any criminal prosecution or in any suit or proceeding in equity.

I am not at all particular about the phraseology.

Mr. REED. Leave out the words "in equity," and let it read "any suit or proceeding." That would cover any kind of proceeding.

Mr. BRYAN. That was my motion.

Mr. CULBERSON. There is no suit authorized by any of these statutes by the United States except a criminal prosecution or a suit in equity. The United States does not bring a suit at law for damages.

Mr. BRYAN. It occurs to me, Mr. President, that if the words "in equity" were stricken out, so that it would read "rendered in any suit or proceeding brought by or on behalf of the United States under the antitrust laws," it would be as broad as the antitrust law itself; but I am not interested in the phraseology. So I accept the suggestion of the Senator from Texas, and adopt his language, and offer it, withdrawing my first amendment.

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The SECRETARY. On page 6, in the committee amendment, in line 12, after the word "rendered," it is proposed to insert the words "in any criminal prosecution or," so that, if amended as proposed, it will read:

That a final judgment or decree heretofore or hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question recurs on the amendment as amended.

Mr. WALSH. Mr. President, that now brings up the question of whether we shall adhere to the House provision or adopt the provision recommended by the Senate committee; in other words, whether we shall make the judgment in the proceedings in which it is decreed that the defendant is a trust in violation of the statute conclusive, or whether it shall be held as prima facie evidence of the facts. I feel like taking the time of the Senate for just a few moments more this morning upon that question.

It will be borne in mind, first, that if you make it prima facie evidence only you leave entirely open every question of law that was litigated and determined in the original proceeding; you leave the question of fact open as well. You simply throw the burden of proof upon the defendant, when otherwise it would be upon the plaintiff. That is the whole force and effect of the statute that you are proposing to pass—simply to transfer the burden of proof.

As was well said in the editorial read from the desk yesterday, the whole purpose of the proposed statute is emasculated; its whole effect is destroyed. You are really giving nothing, for all practical purposes, by the provision here inserted.

I indicated yesterday that, in my judgment, in the prosecution of one of these cases the United States prosecutes as the representative of all of its citizens, and that there is no violation at all of legal principles when any one of its citizens subsequently takes advantage of the adjudication that is made in the primary suit.

Mr. WHITE. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Alabama?

Mr. WALSH. Certainly.

Mr. WHITE. There is just one question right at that point which I should like to ask the Senator, and that is where that would leave an alien who might become interested, the same as a citizen?

Mr. WALSH. Perhaps the word "citizen" is not technically correct. The United States brings the action in behalf of anybody who might be interested, which would include everybody who may claim the protection of this Government.

Mr. WHITE. The Senator gave more significance to the word "citizen" than he really intended.

Mr. WALSH. I did not use it in any technical sense.

I was going to say that this principle has received so broad an application that it has even been held when a judgment is taken against a town that judgment may be enforced by satisfaction out of the private property of the citizen of the town by virtue of a statute so providing. Indeed, Mr. President, that is the ordinary way of satisfying a judgment taken against the town in most of the New England States. It is a practice that prevails in Massachusetts and in the State of Maine. When a suit is instituted against a town every taxpayer of the town is so far included in the proceedings that execution may issue in the action, and his property may be levied upon. Not only that, Mr. President, we are not seeking to make a judgment operative against a citizen, but it is simply an estoppel against the defendant who has had his trial, who has had his day in court.

I want to add, Mr. President, that, in my estimation, constitutional rights are rights that are simply of substance; they do not include mere procedure or forms of law. Those may be changed at the will of the legislative body so long as the substance of the right is not destroyed.

Now, what is the constitutional provision which it is said is transgressed by legislation of this character? It is no other than the rule that no man shall be deprived of his property without due process of law. What is due process of law? Webster defines it as that law which hears before it condemns. In these cases the party has been heard; he has had every opportunity to defend against the claim, and the bill simply provides that when he has had that opportunity and the judgment has gone against him it shall be available not only to the United States, who is a party to the proceedings, but to any citizen of the United States or denizen of the country who desires to take advantage of it. I do not conceive, Mr. President, that this can be of the substance of the right at all. I ask for the yeas and nays on the amendment.

Mr. CULBERSON. Mr. President, I do not propose to argue this question, but I wish to suggest that the statement of the rule of prima facie evidence announced by the Senator from Montana is not so strong as that which the law books lay down. In other words, as I understand, the Senator says that the effect of the committee amendment will only be to shift the burden of proof, whereas the rule as announced by the Supreme Court of the United States is to the general effect that prima facie evidence is such evidence as will support a judgment at law, either criminal or civil, against those whom the rule of prima facie evidence is sought to be invoked, unless rebutted by contrary evidence.

I call attention to an opinion of the Supreme Court of the United States on that question, reported in the Two hundred and nineteenth United States, in the case of Bailey against the State of Alabama, page 234, and I will read the paragraph to which I refer:

Prima facie evidence is sufficient evidence to outweigh the presumption of innocence, and if not met by opposing evidence to support a verdict of guilty. "It is such as in judgment of law is sufficient to establish the fact, and if not rebutted remains sufficient for the purpose." Kelly *v.* Jackson (6 Pet., 632).

Mr. President, in view of that rule announced by the Supreme Court of the United States, and in view of the trend of the decisions of that court to the effect that we can not make a judgment conclusive in which the party claiming it was not a party to the original judgment, I suggest that it is at least dangerous to insert such a doctrine in important legislation of this kind.

Mr. BORAH. Mr. President, I should like to have this section read just as the Senator from Montana desires it to read, and I have a very high regard for his judgment of the law. I must say, however, that I am unable to bring myself to the conclusion that we are not treading upon dangerous ground. I do not say that it might not be possible to sustain that position, but we must find, it seems to me, or ought to find, some distinct precedent for it before we insert it in this bill. There are a number of precedents although not clearly upon the matter as it is here presented, of course, which would lead us to the conclusion that it would not be constitutional, and I am rather inclined to share the view of the Senator from Texas that for that reason we ought not to tread upon that dangerous ground. I think it is safer to proceed upon the other theory.

The VICE PRESIDENT. The Senator from Montana requests the yeas and nays on the committee amendment.

Mr. REED. Mr. President, I should like to ask the Senator from Montana his construction of this section. The section reads as now amended:

That a final judgment or decree heretofore or hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

Does the Senator from Montana believe that under that language as it now stands the judgment of the court as to the law involved would be binding as prima facie evidence in the same way that a judgment as to the facts would be binding?

Mr. WALSH. Why, Mr. President, of course the language says that it shall be prima facie as to all of the matters determined, but the term "prima facie" is not properly applied at all as to the legal principles.

Mr. REED. Does the Senator desire to have the judgment made conclusive both as to the law and the facts?

Mr. WALSH. I do, of course.

Mr. REED. Now, let me put this question to the Senator——

Mr. WALSH. I criticize this provision because you give no effect whatever to the principles of law that have been settled in the primary suit. Every proposition of law is open on the second action.

Mr. REED. Then, Mr. President, the position of the Senator from Montana is that a judgment having been once rendered between the Government and any defendant should thereafter be conclusive in any other suit brought by any other party both as to every question of law and every question of fact involved in the original suit; that is what he desires to accomplish.

What I am saying is not by way of controversy, but to try to clear up this matter. Let me suppose this kind of a case: Let us suppose that an action is brought in a United States circuit court against an individual or corporation for violating the antitrust act; that in that action the court declares the law to be a certain way; that the case is decided against the defendant, and that, thereupon, an appeal is taken to the Supreme Court of the United States, and the Supreme Court of the United States affirms the decree, so that it is a final judgment between the parties. Thereafter an individual brings a suit against the same defendant; but in the meantime the Supreme Court of the United States in another case has absolutely reversed its position upon the law and has held the law as it declared it to be in the case just cited in my illustration to be bad law.

Now, under those circumstances would the Senator say that for all time the bad law declared in that case should be forever enforced against that defendant?

Mr. WALSH. I will answer the Senator by saying that that is just exactly what would happen. Notwithstanding the Supreme Court might subsequently reverse its decision, that bad law would at all times be enforced against the original defendant, and he would be enjoined by the final decree in that action from doing the very things which subsequently the Supreme Court in another case would allow the defendant in that case to continue to do.

Mr. REED. No, Mr. President; the Senator, I think, is inaccurate. It is true that if I have a suit with A, and he defeats me, and final judgment is rendered, the fact that that final judgment is an erroneous and bad judgment and that the law is afterwards otherwise declared does not relieve me of the hardship of bowing to and conforming to that decision. That rule exists, because it is said in the law that there must be an end to litigation. That binds me in that one case; but the fact that I must suffer the hardship of obeying a judgment which is founded upon erroneous considerations in the case I have with A is no reason why, when the law is correctly declared, B, C, D, and E should be enabled to bottom their cases upon a principle which the courts have afterwards declared is a wrong principle. You are extending it. Now, if you make the judgment prima facie, then, of course, as to questions of law, if there is afterwards a reversal of the point—not of the case, but of the law declared in the case—the remedy is there.

The Senator understands perfectly my feeling. I want to make this law as strong as he wants to make it, and he wants to make it as strong as I do. If, however, we were to put into this law a provision making the judgment absolutely conclusive, and if a case such as I have used in my illustration were brought before a court, would not a court be very likely to say: "You are deprived of your day in court; you are deprived of due process of law, because in litigation which did not exist at all at the time the first action was decided you are compelled to submit to a rule of law which is no longer the law of this land"? Indeed, Mr. President, are we not in danger, even if the decision were based upon a statute, and the statute were afterwards repealed, of seeking to bind a defendant conclusively and for all time by a decision bottomed upon such a statute?

Mr. WALSH. If the Senator from Missouri will permit me, I desire to say that you can not possibly minimize the wrong and the hardship that is suffered as the result of a final decision of a court against a man in a case in which the court eventually reaches the conclusion that it was wrong. The man against whom the judgment goes has no redress. He may lose his entire estate, and the law affords no remedy whatever to him. You can not urge that this provision is not sound by supposing a case in which an additional hardship will be wrought where the court originally decides erroneously.

That is all I care to say about the matter; but while I am on my feet I should like to say to the Senator from Idaho——

Mr. WEST. Mr. President——

Mr. WALSH. If the Senator will pardon me——

Mr. WEST. Before the Senator passes from that subject, I should like to ask him a question.

Mr. WALSH. I shall be glad to recur to it, if the Senator will pardon me.

I should like to say to the Senator from Idaho and the Senator from Texas that they need give themselves no deep concern about the possibility of our being wrong about this matter. I was interrogated the other day by the Senator from North Carolina as to whether it was within the power of the legislature to make a tax deed conclusive evidence. I indicated my view about the matter, that it is within the power of the legislature to make the tax deed conclusive of every fact, except such facts as go to the groundwork of the tax; but statutes have been passed which have undertaken thus to make the tax deed conclusive as to every fact recited in the deed; and what has been the holding? It has been that it will not be conclusive evidence, but it will be merely prima facie evidence of the existence of those facts. So, Mr. President, if we should adopt the House provision, declaring that the judgment shall be conclusive, and there are constitutional objections to that, the court will give all the force it can to the statute; namely, it will make it just exactly as the Senators want it—prima facie evidence.

Mr. BORAH. Mr. President, that would be clearly imposing upon the court the duty of legislating—something for which the courts are being very much criticized these days, although often without justification. The Legislature here has up the question whether it shall make a judgment or decree of this kind prima facie or conclusive evidence. We reject the proposition of making it prima facie, and we say that it shall be conclusive. Shall the court have the right to assume that if we could not make it conclusive we would have made it prima facie? In any event I feel that it is our duty to exercise our judgment and not shift responsibility.

Mr. WALSH. Why, Mr. President, it is perfectly obvious that we are trying to make it as valuable as evidence as we can, and the court does not legislate at all. It says that we went further than we had any right to go, but it will give it effect so far as constitutional principles will permit.

Mr. BORAH. May I ask the Senator another question?—because I am going to support the Senator if I become convinced of the legal proposition, and the Senator has great capacity to convince people. Has the Senator any authority or decision, other than those he has cited, with reference to making a judgment against a town conclusive against a citizen of the town? I can see a relationship existing between the citizen and the town which does not exist here. Has the Senator any authority, or has there been any decision, sustaining the proposition, except in the cases where there is a relationship between the citizen and the town, or where there is a distinct rule which applies with reference to tax deeds?

We all know that the courts have said that with reference to tax deeds a rule will be applied which does not apply elsewhere, because of the absolute necessity of the Government having a hasty method of collecting its taxes, and to protect those who take the chance of buying tax deeds; but unless there is some other authority than those I should still feel the matter to be in doubt.

Mr. SHAFROTH. Mr. President——

Mr. WALSH. I said on yesterday to the Senator that a very diligent search had failed to reveal any decision which seemed to me bore directly upon the proposition, either one way or the other.

Mr. BORAH. The difficulty of the situation here, it seems to me, is that there is no privity between these parties as there is between the town and its citizen. He is represented in a certain sense there. He is a member of a municipal corporation, a legal entity. He helps to elect the officers. They represent him. He helps to elect the city attorney. He represents him; and there is a certain privity which the courts have found sufficient to sustain that kind of a judgment.

Mr. WALSH. We are supposed to elect a President of the United States, and thereby the Attorney General as well. Can the Senator see any distinction in principle?

Mr. BORAH. I see quite a distinction between electing a President of the United States and having him appoint an Attorney General, and myself as a citizen, where I am a taxpayer, electing the members of an organization of which I am a member. In one instance I am a member of the body politic; in the other I am a member of a legally constituted municipal corporation.

Mr. WALSH. The Senator contributes to the support of the General Government just the same as he does to the support of the local government.

Mr. BORAH. Yes; but the law contemplates that when residing in a city I am a member of a legal entity, a member of a corporation, and that the legal entity represents me the same way as it does the stockholders in other instances; and that is a reason, in my judgment, why the law has thus gone to such an extent in those instances. I confess that I am arguing this matter, however, without having made any examination of the authorities, and simply upon original principles.

Mr. WALSH. I shall be glad now to answer the question of the Senator from Georgia.

Mr. WEST. Mr. President, injected here it would hardly be pertinent to the subject which was discussed, so I shall not propound the question now.

Mr. WHITE. Mr. President, in many instances I think the provisions of the House bill contended for by the Senator from Montana [Mr. WALSH] would be useful; but there may be circumstances where it would work great hardship and it may be true—and I am afraid it is true—that it would be unconstitutional. I am afraid we are undertaking to exercise judicial power. When we say that certain facts or certain conclusions are binding on those who are not parties to the litigation, it occurs to me that we are exercising judicial power or invading the domain of the judiciary. If we can do that, can we not deny persons their right to be heard their day in court, as it is termed? And if we do that of course we invade the judicial province.

If we adopt the provisions of the House bill contended for by the Senator from Montana, we are putting ourselves in conflict with a long and well-established principle, a principle that was founded in the common law, namely, that judgments and decrees should bind only parties and privies. Evidently that is founded upon reason; and while we may not have had transmitted to us the reasons on which the principle is grounded we have had the principle itself handed down. It is a principle, as I have said, that had its foundation in the common law, and has existed up to this time. Now, we are changing that. We are declaring by this bill that these judgments and decrees shall be binding upon persons who are not parties or privies to the litigation.

There are good reasons why persons not parties or privies to the action should not be bound. There may be cases where the consequences are insignificant as between the immediate parties involved; for that reason little attention may be given them. It may not be of such vital importance as it afterwards becomes in a controversy between others not then parties to the suit. New burdens may be thrust upon the losing party to the litigation not contemplated or the consequences of which could not have been foreseen at the first trial. I think we ought to be careful and considerate before taking this step.

Again, Mr. President, the fact that we can find no precedent for this legislation either in England or in this country, either by Congress or by the legislatures of the several States, is to me a strong argument why the provisions of the House should not be adopted. If this kind of legislation is beneficial, if it is proper, if it is constitutional, why is it that this legislative weapon has never before been used? I think its disuse through the ages is a strong argument against its use to-day. It is a new field upon which we are entering, a field upon which I hesitate to enter.

Mr. President, another thing: I do not know just what courts have held. If, as the Senator contends, in case the conclusive effect intended can not be given to the act it will be given prima facie effect, I would think better of it. Of course, if I was convinced that the Supreme Court of the United States had or would so decide, that would remove the fear I have on this subject, and that fear is this, that the act will be declared unconstitutional and litigants will lose, because we can not make it conclusive, the prima facie effect of these judgments and decrees which they will have if the committee amendment is adopted. To make the decrees or the judgments of the court prima facie evidence is of vast importance to the litigants of the country. After long years of experience in active practice, I believe, Mr. President, that as many cases are lost or won upon the question as to who shall carry the burden of proof as are lost or won upon a consideration of all the evidence in the case.

Then, Mr. President, as has been said, it is burdensome enough to require parties to the litigation themselves to be bound by the findings of a court or jury in a particular case. So many things that we can not at the time possibly foresee influence such decisions. The way in which the evidence is produced may have its effect upon a jury or a court.

The manner in which the case is handled by the lawyers employed may determine in the mind of a jury or a court what the verdict or the judgment shall be, and yet, Mr. President, those things should probably not have been controlling influences in the conclusions reached. It is hard enough, sir, to make them binding forever upon the parties and the privies to the suit. It is possible that because of the inability of one of the parties to obtain evidence the verdict or judgment was rendered in the way it was, and that it would not have been rendered in that way if the missing evidence had been obtained. One of the parties may have been required to submit his case to a jury upon a showing, as we lawyers term it, which produced the proper effect upon the mind of the judge, but which was not worth the paper upon which it was written when it came to producing an impression upon the mind of a jury.

All these things, I say, argue strongly against making these judgments and decrees binding upon anyone except the parties to the suit. It would not be made binding upon them for a moment if it were not for a public necessity. Courts would not hesitate, they never would have hesitated, to have relieved against wrong and injustice but for the fact that in doing it they would have wronged society by removing from the judgments and decrees the stability that they must have in the interest of society.

Mr. President, in my own State—and I use this as an illustration—our supreme court properly held that when it had once decided a case, ever afterwards, when that case was being considered by the court on a subsequent appeal, the decision first rendered in the case was the law of that case, even though the decision was overruled in some other case; thus the court found itself in the position of having to say that that case which had been overruled was binding in the one case when not binding in any other case. To avoid the hardships imposed by this situation, our legislature enacted a law declaring that the supreme court should no longer adhere to any such rule as that, and that in the future consideration of that case it should be treated as any other case here.

Mr. President, it is with regret that I can not go with the Senator from Montana in supporting the provisions of the House bill. I see in some instances that great good might result from such a course; but I fear that greater harm may come. I fear, too, that it may be unconstitutional, and I fear that we may lose that which we will get by adopting the committee amendment—that is, the prima facie effect of these judgments and decrees. I will therefore vote for the committee amendment.

Mr. WEST. Before the Senator from Alabama takes his seat, I should like to ask him a question. As prima facie evidence, would decrees or judgments rendered change the burden of proof in a subsequent case? I notice the Senator alluded to it a few moments ago in his remarks.

Mr. WHITE. Of course, the judgment and decree rendered in a case would be prima facie evidence under the committee amendment in the cases mentioned in the amendment.

Mr. WEST. But would it shift the burden of proof in any subsequent case?

Mr. WHITE. It would shift the burden of proof in all cases covered by the amendment.

Mr. CUMMINS. Mr. President, I shall vote to sustain the amendment proposed by the committee, although I have grave doubt with respect to its efficiency in accomplishing any great, or even material, good. It would be impossible for me to vote for the proposal in the House bill, first, because I doubt very much its constitutionality, and, second, because I have never been able to understand one feature of the House provision. It is this, that on a decree in any suit in equity brought under the antitrust laws in which a final judgment has been rendered and in which it has been found "that a contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce, or has monopolized or attempted to monopolize or combined with any person or persons to monopolize any part of commerce, in violation of any of the antitrust laws, said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute against such defendant conclusive evidence of the same facts."

I have racked my mind in vain to imagine any other proceeding that could be brought by the United States in which the former judgment would operate as an estoppel, and I have been unable to conceive how, therefore, the House provision would make the former judgment or decree evidence of anything, inasmuch as I can not imagine how it could be evidence either for or against the United States in any subsequent proceeding. I know no other proceeding which the United States could institute against that defendant upon that cause of action or any other like it.

But there is another objection to it, and the objection I now state is in a measure an objection against the committee amendment. Whenever we pass this provision we will have effectually put an end to all consent decrees. More than one-half, I fancy, of all the decrees which have been entered adjudging that a defendant or defendants have been guilty of a violation of the antitrust laws—I mean those suits against commercial and industrial organizations—have been entered by consent. The defendant or defendants have been willing to cease to do the thing which they were charged with doing and they agreed to a decree, they submitted to the general policy enforced by the Department of Justice, and they are enjoined against a continuation of these practices.

Mr. WHITE. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Alabama?

Mr. CUMMINS. I yield to the Senator.

Mr. WHITE. Does not the Senator suppose that they gave consent to these decrees because they knew that the same end would be reached in a trial?

Mr. CUMMINS. Not always. I think in many cases they have been willing to abandon the courses or practices which they have pursued in order to avoid litigation and because the profit in so doing was not sufficient to warrant the trial. But if that consent decree is to be made conclusive evidence in favor of any plaintiff that might thereafter sue the defendant for damages, it goes without saying that the defendant in the Government suit would insist upon a complete trial and a vindication if possible.

I think that a code of business morals has grown up partially through these consent decrees, and that it would be very unfortunate from a high standpoint of public policy to say that these decrees should be conclusive evidence against the defendant of all the things that were charged in the bill of complaint and which may have been covered by the decree. I think it would be far better to make the judgment or decree prima facie evidence. I am a little at sea with regard to just what that means. All these great combinations which have been adjudged guilty of violations of the antitrust law have been guilty of a series of acts, thousands of acts, which joined together constitute a restraint of trade. Very few, I think, have been adjudged guilty of a violation of the law because of any single act.

When a decree is rendered, therefore, holding that there has been a combination in restraint of trade, of what particular act does that decree become either conclusive or prima facie evidence? Take the Standard Oil Co., for instance. It is a prolific illustration. One of the things that it did was to reduce prices in a given locality in order to eliminate a competitor who may have arisen in that locality. That was one thing that this great corporation did and did repeatedly, and it is one of the things, taken with a hundred others, for which it was condemned in the decree of the court. Now, let me turn to the antitrust law. I should like to know precisely what the application of this provision would be. Section 7 declares:

> That any person who shall be injured in his business or property by any other person or corporation, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States and recover threefold damages.

Suppose that this competitor who had been driven out of business on account of a reduction in price in a particular locality were to sue the Standard Oil Co. to recover damages, of what would the decree that was rendered in the suit against the Standard Oil Co. be—conclusive evidence or prima facie evidence? It would be prima facie evidence, we may assume, of the fact or the compound of law and fact that the Standard Oil Co. had throughout the United States and in all its practices been guilty of a violation of the antitrust law. But in order to recover the person injured must show that he was injured by reason of something forbidden or declared unlawful by the act.

Now, if the thing was a single transaction, if it was a single act, there would be no difficulty about it; but when the thing forbidden, or the thing of which the Standard Oil Co. was found guilty, is a long series of acts and combinations and incorporations, it is my opinion that what we propose to do now, whether we make it prima facie evidence or whether we make it conclusive evidence, will be of little avail to the person who sues to recover. I think he will still have to show that the thing by which he was hurt was a violation of the antitrust law, and in nine cases out of ten the decree does not adjudge that that particular thing was a violation of the antitrust law. I should like in some way, although I do not know how we could do it, to make it much clearer than it is.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I yield.

Mr. WALSH. I was going to suggest to the Senator from Iowa that I assume that in all of these cases findings of fact are made.

Mr. CUMMINS. Oh, no.

Mr. WALSH. It may be charged, for instance, that local price cutting was practiced with intent to drive Jones or Smith or some one else out of business, and——

Mr. CUMMINS. I think there are very few cases in which there are findings of fact of the sort the Senator from Montana has in mind.

Mr. WALSH. If that is the case, the rule of implied findings would apply.

Mr. CUMMINS. The court reviews the evidence generally, the history of the defendant corporation, and says that all its history shows a violation of the antitrust law or a restraint of trade or an attempt to monopolize. I have never been able to see just how that opinion or that finding or that decree in the case in which the whole field was surveyed could be made available to a particular person who may have been injured by a particular act, which act, taken in connection with all the other acts, constitutes a restraint of trade, but which, taken alone, may not so constitute a restraint of trade.

However, I am expressing that view simply because I did not want it hereafter to be said that I, at least, thought that this section either as passed by the other House or as reported by the Senate committee would solve the problem or would render to the persons who have been injured by specific acts of an offending corporation the relief to which they are entitled, if we could conceive any way to award it to them.

In concluding, Mr. President, I will say that I think it is much better to go slowly with the movement, at any rate, and not to tempt total failure by making a judgment conclusive evidence in the face of the doubt that so many lawyers feel with respect to our power in that respect.

Mr. REED. Mr. President, I think this is a question presenting many grave difficulties, and that it is one that we ought to approach in as calm and judicial a spirit as possible. There can be no difference of opinion among the friends of this bill as to the object which we desire to attain, but in seeking to attain that object it is entirely possible we may defeat our purposes by endeavoring to do something which we are without power to do; or, again, we may defeat our object in its spirit by doing something which is ill-advised.

I grant that in the ordinary case a judgment, having been rendered, might well be made conclusive if we do not run counter to the principle that we are denying the individual his day in court. I do not think that question is without its doubts.

What is meant by your day in court? I think that when a court comes to consider the question of whether a litigant has had his day in court the court is likely to take the position that that expression has a pretty well defined meaning in the law, and that it means in the case where the judgment is about to be rendered that the litigant must be entitled to his full right to put in his evidence and take the judgment of a court or jury upon the facts thus presented in that particular case.

When you simply provide by law that a certain condition of facts shall constitute a prima facie case you do not violate the rule, because the individual still has his right to overcome that evidence, to fight that question out, and to take the judgment of a court or jury upon the whole case. When you make it conclusive a different question is presented.

I am not going to arrogate to myself such wisdom as to say that if you do make it conclusive you are necessarily impinging upon the constitutional right of a citizen, but it occurs to me that it is an exceedingly dangerous thing to do, and that we may by attempting to do too much succeed in doing nothing. When, however, on the other hand, we use the term "prima facie" I think we use a term that is too weak.

When we come to the definitions of "prima facie" we find they vary. I can illustrate that. In "Words and Phrases" I find this definition:

> A prima facie case is that state of facts which entitles the party to have the case go to the jury.

If that were the universal rule, I think I could be content with this language as it now is in the bill. Again it is said:

> Making it a prima facie case does not necessarily or usually change the burden of proof. A prima facie case is that amount of evidence which would be sufficient to counterbalance the general presumption of innocence, and warrant a conviction if not then encountered and controlled by evidence tending to contradict it and render it improbable, or to prove other facts inconsistent with it.

There we come to a very dangerous doctrine. If a prima facie case is made by laying down the decree in a trust suit, and it is

sufficient to enable the party who has produced that decree to go to the court or jury, no matter what other evidence is produced, and to have that evidence considered by the jury and to have it regarded by the court as sufficient to sustain the verdict of the jury or the judgment of the court, well and good; but if the court takes the view suggested in the latter definition which I have read, that prima facie is only sufficient to throw the burden upon the other man and to require him to produce evidence, and that when he has produced that evidence the force and effect of the prima facie case is overthrown, you have a doctrine which, if it were held with reference to the legislation we are about to enact, would result in emasculating it. So I have great sympathy for the desire—indeed, I am in perfect accord with the desire—of the Senator from Montana to make these judgments really effective.

How slight a thing a prima facie case may be is well illustrated in a case which I find on momentary examination from my own State—the case of Gilbert against The Missouri, Kansas & Texas Railway, reported in One hundred and ninety-seventh Missouri. The syllabus of that case reads in part:

Under the statute giving to the owner damages for stock which go onto a railroad not "inclosed by a good fence" and are injured no liability attaches to the railroad company for failure to put a cattle guard at the place where the stock enters if to do so would endanger the lives or limbs of the company's employees. No such express exception is written in the statute, but to construe it otherwise would make its meaning unnatural.

The third syllabus is the following:

The owner of a horse which went onto a railroad track and was killed makes out a prima facie case of negligence on the part of the railroad by showing that there was no cattle guard at the crossing where the horse entered upon the track, and because of that fact the horse got on the track and was killed. And if his evidence stops there, he has made out a prima facie case, which casts the burden on the railroad company to show that a cattle guard could not have been maintained there without imperiling the lives of railroad employees whose business required them to walk over it. But if, in order to show the condition of the crossing at the particular place, it becomes necessary for plaintiff to show the whole condition, and in doing so he shows a condition which speaks for itself and suggests the question of whether or not a cattle guard could be maintained at the place without endangering the lives of the company's employees whose business in operating trains compelled them to pass over it, the burden was not cast upon defendant; but plaintiff, under such circumstances, is not entitled to ask the jury for a verdict until he has shown by some explanatory evidence that a cattle guard could have been maintained there without imperiling the lives and limbs of the railroad employees.

It will be observed by the few Senators who are giving this bill consideration that in that case the statute which declared that a certain showing was prima facie was reduced so that it simply made the shadow of a showing, which could be blown aside by very slight evidence to the contrary.

I think it would be very wise if we passed by this section this morning, and let us see if we can not determine on some language which will strengthen it in this regard. I am afraid to vote for the amendment offered by the Senator from Montana, because I fear it might destroy the whole law. I am afraid to vote for it for another reason.

Mr. POMERENE. Mr. President——

Mr. REED. If the Senator will pardon me a moment, I should like to state that reason. It is that I can see cases where it might do a great injustice. As I observed a little while ago, this judgment would be conclusive, both as to law and as to fact; and it might be that after a judgment was rendered and the law declared in a certain manner, the highest authority in the country might declare that law to be bad law; and yet, for all time that judgment would stand, and any person could invoke it and it would be conclusive upon the party against whom it was rendered, although the Supreme Court of the United States might have otherwise declared the law.

FORT HAYS MILITARY RESERVATION, KANS.

During the delivery of Mr. REED's speech,

Mr. THOMPSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Kansas?

Mr. REED. I do.

Mr. THOMPSON. Out of order, from the Committee on Public Lands, I report back favorably with an amendment House bill 14155, and I submit a report (No. 748) thereon. As this is entirely a local matter, I ask unanimous consent for the immediate consideration of the bill.

The VICE PRESIDENT. Is there objection?

Mr. JONES. What is the bill referred to, Mr. President?

The VICE PRESIDENT. The Senator from Kansas reports from the Committee on Public Lands a bill and asks for its immediate consideration. The title of the bill will be stated.

The SECRETARY. A bill (H. R. 14155) to amend an act of Congress approved March 28, 1900 (Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park."

Mr. JONES. I have no objection to the consideration of the bill, but I wish to suggest the rule of the Senate does not permit a Senator who has the floor to yield for the presentation of morning business.

The VICE PRESIDENT. There is not any doubt about that.

Mr. THOMPSON. I did not understand the remark of the Senator from Washington.

The VICE PRESIDENT. The Chair has stated there is no doubt about its being the rule of the Senate that no Senator shall interrupt another Senator who is on the floor for the purpose of introducing a bill or making a report.

Mr. THOMPSON. I understood the Senator from Missouri yielded for the purpose.

The VICE PRESIDENT. But, under the rules of the Senate, the Senator had no right to yield under such circumstances.

Mr. REED. I will yield the floor and take my chances of getting it again in order to let the Senator from Kansas secure consideration of his bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill which had been reported from the Committee on Public Lands, with an amendment, on page 1, line 4, before the word "Statutes," to insert "volume 31," so as to read:

That an act of Congress approved March 28, 1900 (vol. 31, Stat. L., p. 52)—

And so forth.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill to amend an act of Congress approved March 28, 1900 (vol. 31, Stat. L., p. 52), entitled 'An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park.'"

After the conclusion of Mr. REED's speech,

COTTON WAREHOUSES.

Mr. SMITH of Georgia. Mr. President, during the period of my presence in the Senate I have not at any time heretofore asked the consideration by the Senate of any subject except that which was immediately before the Senate. To-day the importance of the question, growing as it does out of the European wars, justifies my action. I call your attention to an emergency bill which, later on, I shall ask unanimous consent to take up, and I trust you will pass without a dissenting vote.

The bill to which I refer is Senate bill 6266, reported favorably on yesterday from the Committee on Agriculture and Forestry. It is a bill that authorizes the Secretary of Agriculture to issue licenses to such cotton warehouses as may apply to him for license, the business of which involves interstate and foreign commerce. The licensed warehouses will then become subject to regulations to be passed by the Secretary of Agriculture. They must submit to classification by him. They must submit to inspection by him. The effect of this supervision will be that warehouse receipts issued for cotton stored in these warehouses will have a recognized standing when offered for sale or when tendered as security for advances of money or when used in payment of obligations.

This is practically the extent to which the bill goes. It does not force any warehouse to submit to the supervision of the Secretary of Agriculture or to take out a license. It permits the warehouse to obtain the benefit of the additional standing for its warehouse receipts for cotton which they will derive through inspection and regulation by the Secretary of Agriculture.

Mr. President, I believe the cotton situation to-day in the South is not simply a local problem; it is one of national importance and should be of national interest. In 1800 we exported from the United States only 36,000 bales of cotton; since that time lint cotton, sold abroad, has returned to the United States approximately $20,000,000,000 of gold. Last year lint cotton exported brought back to the United States $610,000,000. It saved our international balance. It furnished the $610,000,000 from foreign countries to give life and strength to our entire commerce.

So enormous an exportation necessarily has a great influence, not simply upon the local business of the section producing the cotton but upon the entire country. A large part of the things required to produce cotton are bought outside of the South. Much of the foodstuffs consumed is bought from the Middle West. The manufactured products used upon the farm are bought from the East. The commerce of the whole country is largely affected by the $1,000,000,000 for which the cotton crop and the cotton seed produced in our Southern States sold last year.

I hold in my hand a statement of the consumption of lint cotton by the mills of foreign countries during 1913, which I desire to place in the RECORD:

	Bales.
Great Britain	3,281,000
Germany	1,256,000
Russia	376,000
France	786,000
Austria	626,000
Italy	537,000
Spain	261,000
Belgium	171,000
Japan	423,000
Switzerland	58,000
Holland	67,000
India	73,000

The present cotton crop is simply a normal crop, about 500,000 bales less than last year's crop. A normal demand for this crop would give it a selling price of about 13 cents a pound; but the foreign war——

Mr. LIPPITT. Mr. President, when the Senator says 13 cents a pound, where does he mean?

Mr. SMITH of Georgia. I should say at the mill here in the United States. It sold last week at 13¼ cents in England.

Mr. LIPPITT. I only asked the question, because it makes quite a difference.

Mr. SMITH of Georgia. I think probably 13¼ cents at the mill would be a normal price. It would depend somewhat, of course, upon where the mill was. Thirteen cents would be about a normal price at the mills in Georgia, South Carolina, and North Carolina. That would be about midway of the United States.

It is estimated that it cost to produce the crop of the present year between 11 and 11½ cents a pound. Sixty per cent of the demand for the crop at present is suspended.

It is a fair estimate to say that one-half the value of the crop is owed for its production, and this indebtedness reaches not alone to the local bank and the local merchant; it reaches on to the northern wholesale merchant and the northern bank. In addition to the great value to the commerce of the entire country which this crop brings through exportation there is its effect locally upon the business of the entire country.

I desire to call attention to the fact that next year's crop must necessarily be lessened. The same war which interferes with the demand for the raw material cuts off the supply of potash and other ingredients absolutely essential for commercial fertilizers, for they are largely bought from Germany. So that the fertilizer supply for next year must necessarily be substantially reduced. Indeed, many of the mills now are almost unable to produce fertilizer, being unable to obtain their supplies of potash. The fact that a large amount of cotton must necessarily be carried over, and carried over by the farmers themselves, together with the fact that foodstuffs are high, already has turned the farmers in the cotton-growing States into preparation for large quantities of oats, and, in those portions of the section that will raise it, to wheat. It can be confidently asserted that this year's cotton supply and next year's cotton supply will be consumed by the mills of next year and the year following; that the temporary loss in mill consumption by reason of the war will be more than met by the reduced production of cotton next year.

I believe it is also a just conclusion that the three raw materials which compete with cotton will be produced next year in lessened quantity and be more expensive by reason of the war. I refer to wool, flax, and silk. Already in Germany and in Europe the sheep supply is being lessened as a result of the war through consumption for food. While the finer fabrics made from cotton will find a lessened consumption, the coarser fabrics will have an increased consumption, and the coarser fabrics require the largest amount of lint cotton. So I believe it to be a just conclusion that the production of lint cotton this year and next year will be fully demanded by the consumption of the two years that are to come.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Connecticut?

Mr. SMITH of Georgia. Yes.

Mr. BRANDEGEE. I wish to ask the Senator why this Government inspection and this process as to warehouse receipts in cotton, if it is to be adopted, should not be extended to other staple agricultural products?

Mr. SMITH of Georgia. I am not objecting to its extension. I only undertook to present a measure in which the people whom I represent are directly interested. I have already suggested to Senators who are interested on other lines that they consider the question with reference to their peculiar localities.

Mr. BRANDEGEE. Has the Committee on Agriculture and Forestry, from which this bill came, considered the system with relation to other great staple products?

Mr. SMITH of Georgia. No. This bill really is the product of the Agricultural Department, of Congressman LEVER, of South Carolina, and of myself; but we have considered the possibility of such an amendment, and there is no disposition to resist such an amendment.

Mr. BRANDEGEE. I supposed, without being at all familiar with it—I have glanced over the bill hastily since the Senator began to speak—that the idea is to make the warehouse certificate a more reliable instrument, a negotiable instrument, practically, and to inspire confidence in it, owing to the fact that the department has examined the goods that are stored and certifies as to the quantity and quality.

Mr. SMITH of Georgia. I made substantially that statement at the opening of my remarks. What I wish to do at this time is to press the proposition that the cotton now in the South, though half its market is temporarily cut off, within the next two years will be demanded for manufacture, and that it is simply a question of carrying over part of this cotton for 12 months; that the world's demand will press for it within that time; that the supply of its rivals—wool, flax, and silk—will be lessened; that the lessened use of finer fabrics will be made up by increased use of coarser fabrics, and the coarser fabrics made from cotton require more of the raw material, though much less valuable when finally manufactured; and that cotton properly warehoused, properly cared for, absolutely durable, as good when 50 years old as when a month old, furnishes the most perfect basis for warehouse deposit and warehouse certificate; and that at any sum approximately the cost of production, which for the present crop was something over 11 cents a pound, it should give to the investor a handsome profit.

Mr. BRANDEGEE. Mr. President, what I want to find out, being ignorant, as compared with the Senator from Georgia, of the method in which the cotton crop is carried and marketed, is this: Supposing that it is desirable to carry along a large proportion of the cotton crop for a year or two. Why can not that be done now if parties are willing to furnish the capital? What is the difficulty about their sending their own agents or inspectors to examine the cotton and then warehousing it themselves?

Mr. SMITH of Georgia. There is not any difficulty about their doing it, but there is a great additional value which would be given to a uniform system and a uniform classification. The public generally will accept a warehousing system supervised and classified and graded by Government officials as a far better security than when conducted on an individual and unsystematized plan.

Mr. BRANDEGEE. I had supposed that in practical operation a large amount of cotton would require a large amount of capital to carry it; that something in the nature of a syndicate would be formed by bankers or people who have capital to invest; and that they would buy up a large quantity of it under their own inspection and store it themselves. Is it the idea, if this bill should pass, that a warehouse certificate shall be issued against the individual deposit of cotton by planters and that they would themselves find a market in a smaller pro rata way?

Mr. SMITH of Georgia. Undoubtedly.

Mr. BRANDEGEE. Then I get the Senator's idea.

Mr. SMITH of Georgia. A farmer with 25 bales or 50 bales of cotton upon which he perhaps needs to obtain $25 a bale to go through the season, with his certificate of deposit from a warehouse of the character proposed, would have an available security if he desired to sell a part of it. If he desired to sell 5 or 10 bales, a purchaser might well buy on the basis of 11 cents per pound, earn 10 per cent interest, probably 25 per cent interest, on his investment during the next 12 months. We wish to broaden the field for handling the crop, to aid the actual producer, to free him from the necessity to a large extent of selling to the speculator.

Mr. BRANDEGEE. Is it the Senator's idea that these warehouse certificates would be dealt in upon exchanges like the certificates of stock to be bought or sold, or would they simply be deposited as a collateral for loans?

Mr. SMITH of Georgia. They can be dealt in generally. Many people locally would buy them. It would facilitate the utilization of all money that was available, whether in large quantities or in small quantities.

I trust that within a few months the ocean may be open for transportation, and that a large part of our foreign consumption will be resumed, and that the real volume of the crop which must be carried over to a second season will not be more than 25 per cent. But whatever it is, I present the thought that it is not simply a matter of local interest. Of course, it is primarily of local interest; it is of the utmost local importance; but it is also true that a commodity which brought $610,000,000 of gold last year to the United States from its exportation contributes greatly to the entire commerce of our whole country. I am justified in asking the attention of all Senators to this problem as one of national importance.

Mr. LIPPITT. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Rhode Island?

Mr. SMITH of Georgia. I do.

Mr. LIPPPITT. I just wanted to ask the Senator whether he had an idea that the passage of this act, whatever its ultimate benefits might be, would possibly have any particular effect upon the storage of cotton during the present season?

Mr. SMITH of Georgia. Oh, yes.

Mr. LIPPITT. Are there now in existence in the South a large number of storehouses——

Mr. SMITH of Georgia. Quite a number.

Mr. LIPPITT. If the Senator will permit me to continue, are there now in the South in existence a large number of storehouses which would be available for the storage of cotton under such a provision as this——

Mr. SMITH of Georgia. Yes.

Mr. LIPPITT. Which would not be unless such a provision is enacted? In other words, while the Senator is arguing this matter from the standpoint of the immediate situation, it seems to me the bill would have no effect upon the immediate situation unless as a result of it there was either built in the South a number of buildings for storehouses, or there was in consequence of it devoted to the use of storage a number of buildings that are not now available for that purpose, in addition to what already exist. Of course, to build a cotton storehouse is not a matter of an overnight's operation. It takes some considerable time.

I should like to say to the Senator that I am not in any way antagonistic to anything that will enable the southern people in this situation or in any situation to get a good price for their cotton crop. I sympathize very strongly with them in the situation which they are now facing. It looks as though, among all the agricultural people in the country, their particular product, under these unfortunate circumstances, is one that is apt to suffer the most. I agree with the Senator in his theory that there is no crop in this country that is of so great value to all the people of the country in regard to its foreign relations as the cotton crop. The export of that crop annually brings us very large sums of money. Two-thirds of it is exported, in round numbers, and one-third of it is used at home.

I have always been a great believer in the South getting a good price for its cotton, and I will be very glad to join the Senator in any reasonable provision that will enable the people of the South to get a good price for their cotton. Although I come from a section of the country which purchases cotton, and although I am myself a user of cotton, I have always felt that the benefit to the country of the South getting a high price for its cotton was of much greater importance than any temporary benefit which would come to New England from buying cotton at a low price. The manufacturer must have rich customers to get a good price for his product. The money which the other nations of the world bring to this country for the amount of cotton which is used foreign, if sold to them at a high price in its buying capacity is of the greatest importance, and it really to a user of cotton makes no difference in the long run what price he pays for it. It is only a question of his paying the same price that other people are paying for it.

I merely wish to say that I am not at all antagonistic in any way to any purpose the Senator may have toward getting a higher price for cotton, but it did seem to me that he was arguing this proposition from the standpoint of the immediate emergency. He is more familiar with it than I am, but I really am not able to see at the moment how we can apply it to the immediate emergency at all.

Of course we in New England would gladly welcome—the users of cotton all over the world would gladly welcome—some new method of storing the cotton in the South. As it is now done it is largely left out in the open. You may go through the South in the train and see the cotton by the side of the plantation cabin exposed to weather of all kinds, and being injured in various ways, lying in the mud; and being a very valuable crop, it is an anomalous situation. Some provision ought to be made for the better protection of the cotton. If this would do it in a reasonable way, and do it effectively, and will not be too great a cost to the Government, I should be inclined to help the Senator in getting it, but I should like to have a standard.

I beg the Senator's pardon for speaking so long.

Mr. SMITH of Georgia. I am glad the Senator from Rhode Island interrupted me. His statement with reference to the attitude of the manufacturers of New England is just what I understand it to be. I do not believe there is any desire on the part of the manufacturers in the United States to depress the price of cotton. All they ask is that their competitors do not buy cheaper than they buy. They can not afford to pay one price and have competitors buy at substantially lower prices.

Mr. LIPPITT. I might say in all fairness to the Senator that in trying out that situation the practical effect of it is that they are almost always trying to buy a little lower. If they are assured that everyone else is paying the same price it is a matter of indifference to them.

Mr. SMITH of Georgia. It is uniformity of price that is essential. With reference to how this measure can help us at once, I wish to say to the Senator that it is practicable, in a very short time, at a very small expense, to put up a warehouse that is entirely serviceable. Space upon the ground is cheap, and a felt covering is ample at a small expense. I do not think I have the correct name, but it is a felt roofing. The Senator from New York [Mr. O'GORMAN] tells me it is called felt roofing. It is a cheap roofing that is used to cover the warehouse, and at a very little expense quite a large warehouse can be made.

Mr. LIPPITT. Does the Senator contemplate fireproof warehouses or simply buildings for protection from the weather?

Mr. SMITH of Georgia. They are for protection from the weather, and properly guarded they are easily protected from fire. There are a great many buildings which are rapidly being gathered together in localities throughout the South at the present time which are available for cotton warehouse purposes. They are unoccupied, and they are being obtained by local committees and put in shape for cotton storage. While the storehouses will not be, perhaps, ideal, yet warehousing facilities are rapidly being put in shape with a view of caring for a large part of the crop.

The object of inspection and classification by the Secretary of Agriculture is that the certificates may fall under classes that the buyer will comprehend.

Mr. LIPPITT. I do not want to discourage the Senator, but it does not seem to me that the Secretary of Agriculture would be likely to approve or to certify such a storehouse as the Senator described. Of course if he is going to give his approval to a storehouse, it must be a building that is efficient from all the aspects of the case. I do not suppose this bill, which I have just read and which the Senator has given reasons for, means that any flimsy structure or any temporary structure——

Mr. SMITH of Georgia. If so, it would be shown to be that character of structure. The bill provides for different classes of certificates. The warehouse receipt discloses the classification.

Mr. LIPPITT. Why is it not feasible for the respective States in the South to issue their own certificates for this purpose, instead of having the National Government undertake to comply with a purely local need? The State, acting through its legislature, in authorizing such structures, the certificate would be quite as strong.

Mr. SMITH of Georgia. I do not think so.

Mr. LIPPITT. The only purpose, I understand, the Senator has in mind immediately is to enable people to borrow money.

Mr. SMITH of Georgia. Or to sell certificates, to make negotiable paper.

Mr. LIPPITT. Well, to get cash in some form or other for their cotton. I should think on simply the one proposition it would be a cheap way for the respective States, and it would be a quick way, to meet the emergency.

Mr. SMITH of Georgia. We believe it would be vastly better if it were under the Department of Agriculture. The department is prepared to take hold of the subject at once. The department has its Division of Markets in operation, and the Secretary and the director of the division feel competent to handle it and handle it rapidly.

Mr. McCUMBER. Mr. President, why does the Senator include in his bill a provision for wicked national inspection and grading, which has been so heartily condemned on that side and by a few Members on this side, when, as a matter of fact, there is an efficient system of grading in New Orleans, Gal-

veston, Charleston, Boston, and New York? Can not the Senator see that he is destroying those systems of inspection and grading, which have been the result of the legislation of those States for the last 40 years, by a system of national inspection and grading which received such hearty condemnation on the part of the Senate when it was asked in relation to wheat and oats and barley?

Mr. SMITH of Georgia. The Senator's eloquent speeches on the subject of wheat and oats and barley were very persuasive with me. He did not hear any speeches made from my desk criticizing the line of thought that he presented.

Mr. GRONNA. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the junior Senator from North Dakota?

Mr. SMITH of Georgia. So the inquiry of the Senator should be addressed to some one else.

Mr. McCUMBER. Let me ask the Senator just one other question.

Mr. SMITH of Georgia. Certainly.

Mr. McCUMBER. I understand the Senator would have no objection whatever if we would amend the bill so as to add another section at the end which would read about as follows:

That all the provisions of this act shall apply, as far as practicable, to warehouses for the inspection of wheat, oats, barley, corn, and rye, and the further sum of $50,000, or so much thereof as may be required, is hereby appropriated to pay salaries and expenses relative to grain warehouses and for the inspection of said grains.

That would cover the matter of grain, in which we are interested the same as cotton.

Mr. SMITH of Georgia. I see no reason to object.

Mr. LIPPITT. I should like to ask the Senator, if I may be allowed, if he would not make a good job of it and add to it "cotton, woolen, and silk goods, or merchandise of any other kind, in similar storehouses"?

Mr. WEST. I would suggest, as a southern product, naval stores.

Mr. McCUMBER. Let me ask the Senator from Rhode Island what difference there is in principle between the warehousing of the cotton which is produced by the farmer and warehousing and the easy selling of grains that are produced by the farmer? The Senator from Rhode Island indicated his most hearty approval of this provision in relation to cotton. Why should it not apply with the same force to the proper and easy handling of grains and the disposition of certificates?

Mr. LIPPITT. I will say to the Senator that I see no reason why it should not apply; but I am not familiar enough with the details of the grain business to answer the question. However, I should like to say, further, that when I was discussing it I had only very hastily read the bill, and I was considering merely the principle of having cotton stored in a Government bonded warehouse and licensed. So far as the National Government entering into the question of the grading of cotton, itself becoming responsible for the grade of cotton on which those certificates might be issued, that is contained in the bill, I think it is an entirely different question from the one which I was talking about with the Senator from Georgia. I think personally it is not a wise provision that the National Government should enter into that field and make itself responsible for that gradation.

Mr. McCUMBER. I am very sorry if I have brought——

Mr. WEST. With the consent of the Senator from Georgia I should like to ask a question.

The VICE PRESIDENT. The Senator from Georgia has the floor.

Mr. McCUMBER. I beg the Chair's pardon. I really thought I had the floor. But I should like to say to the Senator from Rhode Island——

The VICE PRESIDENT. The Senator had the floor with the consent of the Senator from Georgia. Does the Senator from Georgia yield further to the Senator from North Dakota?

Mr. SMITH of Georgia. I yield to the Senator from North Dakota.

Mr. McCUMBER. The Senator from Rhode Island has made a suggestion, and I regret that I called his attention to anything which would make him feel like opposing this bill. But I want to say to the Senator there has already been passed through the Senate a measure providing for the inspection and grading of cotton. It provides that the Secretary of Agriculture may, upon presentation to him of satisfactory proof of competency, issue to any person a license to grade or classify cotton and to certify the grade or class thereof under such rules and regulations as may be made pursuant to the act. So that section opens up the matter clearly of national grading and certifying, and I agree entirely with the Senator from Georgia that that certification by the Government, as a standard to fix values and to give confidence to the purchaser of the certificates, is the very life of this bill and the very best thing there is in it.

Mr. LIPPITT. If I may answer that question——

Mr. JONES. Mr. President——

Mr. LIPPITT. With the permission of the Senator just let me answer the question.

Mr. SMITH of Georgia. I yield first to the Senator from Rhode Island, and then I will yield to the Senator from Washington.

Mr. LIPPITT. I may not be fully informed, but I am in doubt if the Senator from North Dakota is correct when he says the Government has been authorized to classify and inspect cotton in regard to its grading.

Mr. McCUMBER. It passed the Senate.

Mr. LIPPITT. I understand the act passed the Senate to enable the Government to establish standard grades.

Mr. SMITH of Georgia. That was all.

Mr. LIPPITT. But to see whether it shall conform to those grades is quite another question. For the Government to establish the grade to indicate what class of cotton should be called middling, or good middling, and so forth, is quite a different matter from saying that the particular bale of cotton is good middling. I think the Senator will see the distinction there. It is a very strong one.

Mr. JONES. Mr. President, the Senator from Georgia said he would have no objection to the provision suggested by the Senator from North Dakota. I wonder whether he would have any objection to a similar provision in reference to warehouses where apples and salmon and shingles and lumber are stored.

Mr. SMITH of Georgia. I would wish to see the provision before it was agreed to. That, of course, would be utterly impracticable, because they are not staple products.

Mr. JONES. They are staple in our part of the country.

Mr. SMITH of Georgia. They are not staple in the sense that they are permanent in their value. Really cotton occupies a position entirely different from any other agricultural product in this respect. Time does not affect its value. When it is 10 years old it is just as valuable as when it is a month old.

I present the bill. A little later on I shall seek an opportunity to take it up for consideration. I do not ask the Senate to take it up to-day.

Mr. NELSON. Will the Senator yield to me?

I think I see the purpose of the bill. I suppose the purpose of the bill is to provide an opportunity for the cotton raisers of the South to store their cotton and to borrow money on it.

Mr. SMITH of Georgia. That is largely it. It is to facilitate their doing so to meet the great emergency that is upon us.

Mr. NELSON. I would suggest one thing to the Senator in that connection. This is precisely what we are doing with our wheat in the Northwest. It is shipped to the terminal elevators. They issue warehouse receipts specifying the grade and the weight and that it is in store; but under our law we have a provision requiring those terminal warehouses to insure the grain. What I was going to suggest to the Senator in connection with this bill, and I think it would improve it and strengthen it immensely, is to provide that the cotton stored in these bonded warehouses shall be insured for the benefit of the holders of the receipts.

Mr. SMITH of Georgia. There is a provision looking toward insurance.

Mr. NELSON. But it ought to be made compulsory. The wheat receipts from our terminal elevators are considered in the Northwest to be the very best bank paper. Anyone can borrow money on a terminal warehouse receipt from one of the warehouses when he could not borrow on almost any other floating security. I think if your object is to make these warehouse receipts current and to enable your people to borrow money on them, you ought to make them as strong and effective as possible, and you should do that by providing for compulsory insurance.

Mr. SMITH of Georgia. I shall not detain the Senate longer at the present time. I wished to bring this subject to the attention of the Senate that Senators might consider it. At the first convenient opportunity I will seek to bring it before the Senate for action.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER (Mr. BRYAN in the chair). Does the Senator from Georgia yield to the Senator from North Dakota?

Mr. SMITH of Georgia. I yield the floor entirely.

Mr. GRONNA. I was just going to ask the Senator a question.

Does not the bill really have the effect of bringing the producer and the manufacturer closer together? Could not all the warehouse receipts be bought by the manufacturers, and in that way the middlemen be eliminated?

Mr. SMITH of Georgia. Yes.

Mr. GRONNA. It is true, as the Senator from Minnesota [Mr. NELSON] has stated, that in our part of the country we can use these warehouse receipts and the grain is insured. But that is really a little different proposition. The terminal elevators have the privilege of using the grain if they wish. Under the bill of the Senator from Georgia the cotton could not be used.

My colleague [Mr. MCCUMBER] has really brought out the question I intended to ask the Senator from Georgia. But I should want to amend the bill in a different form from the amendment proposed by my colleague. I ask the Senator from Georgia if there would be objection to an amendment to insert, wherever the word "cotton" is found, the words "and grain," and to make such other amendments as may be necessary in order to make the language complete.

Mr. SMITH of Georgia. I should like to suggest to the Senator from North Dakota that he put his amendment in shape. One reason why I brought up the subject to-day was to bring it to the attention of Senators who were interested, that they might prepare any amendments they wish to prepare before the time when, a day or two later, I shall call up the bill and ask action upon it.

Mr. GRONNA. I think the Senator knows that I am friendly to the legislation?

Mr. SMITH of Georgia. Yes.

Mr. GRONNA. As the Senator knows, I shall not oppose this legislation, but I should like to have it apply to grain. While I do not think the Senator's bill, as proposed to be amended, will do what would be accomplished under the bill that my colleague had before the Senate for many years, it would be good work in the right direction.

Mr. GORE. Mr. President, I should like to say to the Senator from North Dakota [Mr. GRONNA], and also to the Senator from Georgia [Mr. SMITH], that a bill covering this entire subject with reference to grain is now in course of preparation and will be introduced within a day or two; in fact, I had hoped to introduce it yesterday, but the measure is not yet completed.

Mr. GRONNA. I wish to ask the Senator from Oklahoma a question. Is not the bill to which the Senator from Oklahoma has reference a bill for the standardization of grain?

Mr. GORE. Mr. President, the Senator is in error upon that point. The bill to which I refer covers the whole subject reported in the bill introduced by the Senator from Georgia in relation to cotton; it is a companion measure to that, including the warehouse proposition, the issuance of certificates, and so on, and also the question of wheat and other grain. There are, however, a great many details in which the two measures must differ. For that reason there has been some delay in the preparation of the bill in relation to grain. I hope, however, to be able to introduce it, if not to-day, at least within the next two or three days.

Mr. GRONNA. I thank the Senator.

Mr. JONES. Mr. President, I want to say to the Senator from Georgia [Mr. SMITH] that I do not want him to infer from the question I asked that I am opposed to his bill; I am with him on any proposition designed to cover the ground and to help out in the present emergency which will appeal to my judgment and which I think is a proper measure; but it did occur to me that possibly the bill might be made to take care of a similar situation in our State. I know that if I can frame a proposal which will appeal to the Senator he will not object to it. Of course, I recognize that the condition with reference to cotton is very different from the condition with reference to the products I have in mind.

PROPOSED ANTITRUST LEGISLATION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment reported by the committee, as amended.

Mr. WALSH. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The Senator from Montana asks for the yeas and nays.

Mr. OWEN. Let the amendment be stated before the question is put.

The PRESIDING OFFICER. Is the demand for the yeas and nays seconded?

The yeas and nays were ordered.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary proceeded to call the roll, and Mr. ASHURST voted in the negative.

Mr. OWEN. Before the Chair ordered the roll called, I had requested that the amendment might be stated.

The PRESIDING OFFICER. The amendment is to strike out section 6 of the House bill and to insert the provision reported by the Senate committee as amended. The Secretary will call the roll.

Mr. WALSH. Mr. President, if I may be permitted——

Mr. OWEN. I do not know what that amendment is, and I want it stated.

The PRESIDING OFFICER. The Senator is now too late. The yeas and nays have been ordered, and the roll call has been begun.

Mr. OWEN. But the request was made——

The PRESIDING OFFICER. The amendment may be stated by unanimous consent. That is the only way it can be done.

Mr. OWEN. The request was made of the Chair before the roll call was begun.

The PRESIDING OFFICER. If there be no objection, the Secretary will restate the amendment. The Chair hears none.

The SECRETARY. On page 5, line 12, after the words "Sec. 6," it is proposed to strike out:

That whenever in any suit or proceeding in equity hereafter brought by or on behalf of the United States under any of the antitrust laws there shall have been rendered a final judgment or decree to the effect that a defendant has entered into a contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce, or has monopolized or attempted to monopolize or combined with any person or persons to monopolize, any part of commerce, in violation of any of the antitrust laws, said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute against such defendant conclusive evidence of the same facts, and be conclusive as to the same questions of law in favor of any other party in any action or proceeding brought under or involving the provisions of any of the antitrust laws.

Whenever any suit or proceeding in equity is hereafter brought by or on behalf of the United States, under any of the antitrust laws, the statute of limitations in respect of each and every private right of action arising under such antitrust laws and based, in whole or in part, on any matter complained of in said suit or proceeding in equity shall be suspended during the pendency of such suit or proceeding in equity.

And to insert:

That a final judgment or decree heretofore or hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

Any person may be prosecuted, tried, or punished for any offense under the antitrust laws, and any suit arising under those laws may be maintained if the indictment is found or the suit is brought within six years next after the occurrence of the act or cause of action complained of, any statute of limitation or other provision of law heretofore enacted to the contrary notwithstanding. Whenever any suit or proceeding in equity is instituted by the United States to prevent or restrain violations of any of the antitrust laws the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof: *Provided*, That this shall not be held to extend the statute of limitations in the case of offenses heretofore committed.

The Secretary resumed the calling of the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. He being absent, I withhold my vote.

Mr. CULBERSON (when his name was called). I transfer my general pair with the Senator from Delaware [Mr. DU PONT] to the Senator from Arizona [Mr. SMITH] and vote "yea."

Mr. GALLINGER (when his name was called). I have a pair with the junior Senator from New York [Mr. O'GORMAN]. He is absent from the Chamber, and I transfer that pair to the Senator from Illinois [Mr. SHERMAN] and vote "yea."

Mr. GORE (when his name was called). I have a pair with the junior Senator from Wisconsin [Mr. STEPHENSON]. I therefore withhold my vote.

Mr. OWEN (when his name was called). I have a pair with the Senator from New Mexico [Mr. CATRON]. If I were at liberty to vote, I should vote "nay."

Mr. REED (when his name was called). I have a general pair with the Senator from Michigan [Mr. SMITH]. In his absence I withhold my vote.

Mr. SMITH of Georgia (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. LODGE]. In his absence I withhold my vote.

Mr. STONE (when his name was called). I have a standing pair with the Senator from Wyoming [Mr. CLARK]. In his absence I withhold my vote.

Mr. TILLMAN (when his name was called). I have a pair with the Senator from West Virginia [Mr. GOFF]. In his absence I withhold my vote.

The roll call was concluded.

Mr. THOMAS. I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote.

Mr. GRONNA. I wish to inquire if the senior Senator from Maine [Mr. JOHNSON] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not.

Mr. GRONNA. I have a pair with that Senator, but I will transfer that pair to the Senator from California [Mr. WORKS] and vote "nay."

Mr. POINDEXTER. Mr. President, a parliamentary inquiry. I understand that the vote is directly upon the amendment of the committee to section 6 of the bill?

The PRESIDING OFFICER. It is.

Mr. POINDEXTER. I vote "nay."

Mr. WILLIAMS (after having voted in the affirmative). I inquire if the senior Senator from Pennsylvania [Mr. PENROSE] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not.

Mr. WILLIAMS. I was so informed a moment ago; but I thought the Senator was in the Chamber, and I voted. I transfer my pair with him to the junior Senator from South Carolina [Mr. SMITH] and will let my vote stand.

Mr. LEA of Tennessee. I have a general pair with the senior Senator from South Dakota [Mr. CRAWFORD]. In his absence I withhold my vote. If at liberty to vote, I would vote "nay."

Mr. SMOOT. I desire to announce the unavoidable absence of my colleague [Mr. SUTHERLAND], and will let the announcement stand for the day. He has a general pair with the senior Senator from Arkansas [Mr. CLARKE].

Mr. GALLINGER. I am requested to announce the pair of the Senator from Maine [Mr. BURLEIGH] with the Senator from New Hampshire [Mr. HOLLIS]; of the Senator from Rhode Island [Mr. MCLEAN] with the Senator from Montana [Mr. MYERS]; of the Senator from Michigan [Mr. TOWNSEND] with the Senator from Arkansas [Mr. ROBINSON]; and of the Senator from Wyoming [Mr. WARREN] with the Senator from Florida [Mr. FLETCHER].

The result was announced—yeas 35, nays 16, as follows:

YEAS—35.

Bankhead	Gallinger	Nelson	Smoot
Borah	Hitchcock	Newlands	Sterling
Bryan	Hughes	Overman	Swanson
Burton	Kenyon	Perkins	Thornton
Camden	Lane	Pomerene	Weeks
Chilton	Lee, Md.	Ransdell	West
Culberson	Lippitt	Shafroth	White
Cummins	McCumber	Simmons	Williams
Fall	Martin, Va.	Smith, Md.	

NAYS—16.

Ashurst	James	Martine, N. J.	Sheppard
Bristow	Jones	Norris	Shively
Clapp	Kern	Pittman	Thompson
Gronna	Lewis	Poindexter	Walsh

NOT VOTING—45.

Brady	Goff	Page	Stephenson
Brandegee	Gore	Penrose	Stone
Burleigh	Hollis	Reed	Sutherland
Catron	Johnson	Robinson	Thomas
Chamberlain	La Follette	Root	Tillman
Clark, Wyo.	Lea, Tenn.	Saulsbury	Townsend
Clarke, Ark.	Lodge	Sherman	Vardaman
Colt	McLean	Shields	Warren
Crawford	Myers	Smith, Ariz.	Works
Dillingham	O'Gorman	Smith, Ga.	
du Pont	Oliver	Smith, Mich.	
Fletcher	Owen	Smith, S. C.	

So the amendment as amended was agreed to.

Mr. POMERENE. Mr. President, I desire to speak this afternoon on the subject of the labor provisions contained in this bill. Since I have been in the Senate it has been my pleasure to aid in the establishment of a Department of Labor, the establishment of a Children's Bureau, to vote for the eight-hour law in the District of Columbia, to support the workmen's compensation bill, and to support a great may other measures which I conceived would aid in relieving the burdens of labor and redound to the general welfare. There are many provisions in this bill on this subject which have my hearty concurrence. I am unqualifiedly in favor of requiring notice to be given before an injunction or restraining order is issued whenever it is possible to give notice and subserve the ends of justice.

I am heartily in favor of jury trials in cases of indirect contempt. In this country we believe in jury trials. There is very little sentiment opposing jury trials in any issue of fact in a law case or in criminal cases, and if we believe in jury trials where the rights of litigants are at stake, it seems to me that there can be no good reason assigned why we should not have a jury trial in the case of indirect contempt.

When a court issues its order it is, so to speak, the statute in that particular case until it is modified or set aside. If the delinquent is found guilty, he is punishable in the discretion of the court either by fine or by imprisonment or by both. The contempt charged may have been committed miles away from the presence of the court; the court can have no knowledge upon the subject save such as the information contains and such as the testimony produced before it affords; and in these cases we know, as a matter of fact, that often there is the most intense feeling prevailing on both sides of the case, and, I regret to say, that it sometimes extends even to the court whose order it is alleged has been trampled under foot. That being the situation, it seems to me that we are only furthering a general principle which we have recognized time out of mind when we say that in those cases a trial by jury shall be granted to the delinquent.

There are other features, however, in the pending bill which give to me serious trouble. I refer particularly to sections 7 and 18.

I am a friend of the Sherman law. For a long time it was a dead letter upon the statute books; new life has been breathed into it; and I would regret to see any exemption made as to any of its provisions for any class of citizens, high or low, rich or poor. I take this position because I believe, first, that it would be inimical to the public welfare, and, secondly, I think I shall be able to demonstrate before I shall take my seat that it would be hostile to the interests of the laboring classes themselves.

Mr. President, I recognize the fact that the Sherman law has been severely criticized. It has been criticized by all classes, whether they be of the employer class or the employee class, when they come in contact with its provisions. I know that the friends of the pending measure are prone to say that there is no such thing as a trust in labor; that in that respect it is differentiated from capital; and I concede that to be so; but I do not think that an examination of the Sherman law justifies the contention that is made by the friends of the pending bill to the effect that it has ever been claimed that labor is a trust.

The present Sherman law is not in the same form as when it was first introduced in the Senate by Senator Sherman. I want to place emphasis upon that fact.

My very good friend from Arizona [Mr. ASHURST] the other day quoted at length from speeches made on the floor of the Senate by Senator Sherman, Senator Teller, Senator Stewart, and perhaps one or two others, to the effect that it was not intended to cover labor or its derelictions, if any, by the provisions of the bill. There was such a contention as that in the earlier discussion of the bill and before it was finally passed.

The bill was introduced on December 4, 1889. It was referred to the committee, reported to the Senate with amendments, and the discussion, in which it was said that it was not intended to cover labor organizations or their operations, took place before the bill assumed final form. Such was the view expressed on March 24 by Senator Teller, on March 25 by Senator Stewart, and on March 27 by Senator Hoar. On the other hand, Senator Edmunds, on March 27, 1890, as will be seen by referring to the CONGRESSIONAL RECORD of that session, page 2729, spoke in part as follows:

> On the one side you say that it is a crime and on the other side you say it is a valuable and proper undertaking. That will not do, Mr. President. You can not get on in that way. It is impossible to separate them, and the principle of it therefore is that if one side, no matter which it is, is authorized to combine the other side must be authorized to combine or the thing will break and there will be universal bankruptcy. That is what it will come to, and then the laborer, whose interest and welfare we are all so really desirous to promote, will turn around and justly say to the Senate of the United States, "Why did you go to such legislation as that? Why did you attempt to stimulate and almost require us to combine against our employers, and thus break down the whole industry of the country and leave us all beggars? When you allowed us to combine and to regulate our wages why did you not allow the products that our hands produced to be raised in price by an arrangement, so that everybody that bought them might pay the increased price and everybody that was making them all around for whom we were working could live also?" I do not think, as a practical thing, Mr. President, that anybody will thank us for making a distinction of that kind.

If those on one side of a proposition are to be compelled to respond to a criminal statute, it is difficult to conceive why those who are on the other side of that question should not

also be required to respond to its criminal or civil provisions, as the case may be.

I refer to the earlier discussion of the Sherman law for the purpose of calling the attention of the Senate to the fact that the bill which was under consideration at the time these expressions were made by Senators Hoar, Teller, and Stewart was not the bill as it passed the Senate. During the discussion and after the question was raised as to whether or not the provisions of the bill as it was originally introduced or as it was thereafter modified by the committee were broad enough to embrace labor and agricultural organizations, Senator Sherman submitted an amendment in the following words:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers made with the view of lessening the number of hours of their labor or of increasing their wages, nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture made with a view of enhancing the price of their own agricultural or horticultural products.

The same amendment was later offered by the then Senator from Rhode Island, Mr. Aldrich.

On March 27, 1890, the bill was recommitted to the Judiciary Committee, and on April 2 it was reported out, completely changed in its form and its provisions. The exemption clause which had been engrafted upon it by a committee amendment before its recommittal was entirely eliminated from the bill. After that—and I think I speak advisedly from a considerable examination which I have given the record myself, as well as by valuable assistants in my office—no reference was made to the question of the application or nonapplication of the provisions of the Sherman law to labor or agricultural organizations. So much it seems to me should be said in the interest of the history of that legislation. The fact that such exemptions were placed in the bill and later taken out by the committee, and its action afterwards confirmed by the Senate, clearly indicates an intention on the part of the Congress to make no exemptions.

Now, I desire to call attention particularly to the provisions of the Sherman law as it passed on July 2, 1890. The title of the bill had been changed. The title of the bill as introduced by Senator Sherman was:

A bill to declare unlawful trusts and combinations in restraint of trade and production.

I offer, without reading it, the first section of that bill, and ask that it be incorporated in my remarks.

The PRESIDING OFFICER (Mr. GRONNA in the chair). In the absence of objection, it is so ordered.

The section referred to is as follows:

Be it enacted, etc., That all arrangements, contracts, agreements, trusts, or combinations between persons or corporations made with the intention to prevent full and free competition in the importation, transportation, or sale of articles imported into the United States, or in the production, manufacture, or sale of articles of domestic growth or production, or domestic raw material, that competes with any similar article upon which a duty is levied by the United States, intended for and which shall be transported from one State or Territory to another for sale, and all such arrangements, contracts, agreements, trusts, or combinations between persons or corporations, intended to advance the cost to the consumer of any such articles, are hereby declared to be against public policy, unlawful, and void.

Mr. POMERENE. Mr. President, the title was amended so that it now reads:

An act to protect trade and commerce against unlawful restraints and monopolies.

It is not a law against organizations per se, whether they be of labor, or of capital, or what not. It was recognized in the early history of that law that most of the restraints of trade were occasioned by unlawful combinations of capital and monopolies, but it was also likewise recognized that a restraint of trade was in itself inimical to the public good no matter what its origin. The first section of the law, in part, reads as follows:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal.

So we see that the ultimate object of this law was not to prevent combinations of any kind, but its primary purpose was to prevent restraints of trade. Conceding for the moment that a restraint of trade ought to be prohibited, it seems to me that it makes but very little difference whether that restraint of trade is made by one class of citizens or by another class. The effect, so far as the public is concerned, is one and the same.

Mr. President, if there ever was any question as to the construction which is to be placed upon this act, it was ended for all time when the Supreme Court, in the Standard Oil Co. case and in the American Tobacco Co. case, said that the words "restraint of trade" meant only an undue restraint of trade. Conceding that to be the proper construction to be placed upon this act, can anyone say for one minute that a combination or organization of laborers for the purpose of obtaining a reasonable wage, or for the purpose of shortening hours, or for the purpose of obtaining reasonably good labor conditions is an undue restraint of trade? The proposition only needs to be stated to fall.

I submit this statement again: If a restraint of trade is a thing that ought to be guarded against by the laws of the United States, it can make no difference, so far as the public welfare is concerned, whether that restraint of trade is due to one class or to another class; the result is the same.

I recognize the fact that there is considerable sentiment in this country among our laboring friends asking for this exemption. I do not believe they would ask it if they understood what the law in fact is.

It is charged that it has been resorted to too frequently; that labor has been made to suffer unduly. The law was passed July 2, 1890, twenty-four years ago. Since that time the Department of Justice has begun 166 cases, and I have on my desk here two letters from the Assistant Attorney General showing that in the 24 years only 13 of these cases have been brought by the department against labor organizations.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I do.

Mr. CUMMINS. I desire to recall to the Senator from Ohio a statement made by him a moment ago concerning which I wish to ask a question and upon which my own mind is not at all clear.

The Senator from Ohio said that it has never been claimed that a labor organization the purpose of which is to secure reasonable wages for its members is a combination in restraint of trade. I should like to know whether the Senator from Ohio attaches any significance to the use of the word "reasonable"? Suppose a combination of workingmen were to come together to secure what some people would call unreasonable wages; would such a combination be in violation of the antitrust law? If so, who is to determine whether the demand of the organization is reasonable or unreasonable?

Mr. POMERENE. Mr. President, I used the word "reasonable" at the time, I think, without attaching any considerable importance to it. My belief is, under the law, that when it comes to contests for an increase of wages, for betterment of hours, for betterment of conditions, so long as it is by peaceful means, this law would not apply, no matter whether the demands are reasonable or not; and I wish in a little while to take up this proposition and discuss it from a legal standpoint. In order that I may do this in the logical order, I desire to call attention to a statement of the law as it is believed to be by the American Federation of Labor.

I read from the report of the Judiciary Committee, on page 10—there is a little more to it in the report of the testimony, but I shall content myself with reading from the report of the Judiciary Committee.

Mr. WEST. Mr. President, before the Senator starts, may I ask whether that is the report of 1890?

Mr. POMERENE. No; it is contained in the report of 1914 submitted on this bill by the chairman of the committee.

Mr. Gompers, in discussing the subject, said:

Gentlemen, under the interpretation placed upon the Sherman antitrust law by the courts, it is within the province and within the power of any administration at any time to begin proceedings to dissolve any organization of labor in the United States and to take charge of and receive whatever funds any worker or organization may have wanted to contribute or felt that it is his duty to contribute to the organization.

Mr. WEBB. Are there any suits pending in the courts now looking to this end, Mr. Gompers?

Mr. GOMPERS. There are no suits now pending, but an organization of workingmen, the window-glass workers, was dissolved by order of the court under the provisions of the Sherman antitrust law, charged with conspiracy as an illegal combination in restraint of trade. And while that organization was dissolved by action of the court, yet it created no furor, for this reason: I have no desire to reflect upon the men who are in charge of that organization as its officers and representatives, but it was, in my judgment, supine cowardice for them not to resist an attempt of the dissolution of their associated effort as a voluntary organization of men to protect the only thing they possessed—the power to labor.

It will be noted that there are not enough of the accompanying facts to advise us as to what the conspiracy was or the nature of it.

Mr. BORAH. Mr. President——

Mr. POMERENE. I will ask the Senator to pardon me until I shall have finished this:

Mr. WEBB. Have you any case where a labor organization has been dissolved simply because they themselves united in asking or fixing a certain wage and went no further in uniting with the manufacturers?

Mr. GOMPERS. I can not tell you, sir, about that. But that is the very essence of the life of the organization. What I want to convey is

this, that there are probably, of these 30,000 or more local associations of workingmen, what we call local unions of workingmen and workingwomen, probably more than two-thirds of whom have agreements with employers. As a matter of fact, I think that every observer and every humanitarian who knows greeted with the greatest satisfaction the creation of the protocol in the sweated industries of New York City and vicinity which abolished sweat shops and long hours of labor, and the burdensome, miserable toil prevailing, and established the combination of employers and of workmen and workwomen by which certain standards are to be enforced, and no employer can become a member of the manufacturers' association in that trade unless he is willing to undersign an agreement by which the conditions prevailing in the protocol will be inaugurated by him. Yet, under the provisions of the Sherman antitrust law, that association of manufacturers has been sued, I think, for something like $250,000, because it is a conspiracy in restraint of trade.

What I mean to say is this: I am perfectly satisfied in my own mind that the Attorney General of this administration, the Attorney General of the United States under the present administration, is not going to dissolve or make any attempt to dissolve the organizations of the working people of this country. I firmly believe that if there should be any of them, any individual or an aggregation of individuals, guilty of any crime, that the present administration would proceed against them just as readily, and perhaps more so, as any other; I am speaking of the procedure against the organizations themselves and the dissolution of them.

But who can tell whether this administration is going to continue very long, or whether the same policy is going to be pursued; that is, the policy of permitting these associations to exist without interference or attempts to isolate them? Who can tell what may come, what may not the future hold in store for us working people who are engaged in an effort for the protection of men and women who toil to make life better worth living? We do not want to exist as a matter of sufferance, subject to the whims or to the chances or to the vindictiveness of any administration or of any administration officer. Our existence is justified not only by our history, but our existence is legally the best concept of what constitutes law. It is an outrage; it is an outrage of not only the conscience, it is an outrage upon justice. It is an outrage upon our language, to attempt to place in the same category a combination of men engaged in the speculation and the control of the products of labor and the products of the soil on the one hand and the associations of men and women who own nothing but themselves and undertake to control nothing but themselves and their power to work.

Mr. FLOYD. I want to see if I understand your position. If I understand your position under the existing status of the law as determined by the Federal courts, if the Attorney General should proceed to dissolve any of your labor organizations they could be dissolved. Is that your proposition.

Mr. GOMPERS. Yes, sir.

Mr. FLOYD. And that your existence, therefore, depends upon the sufferance of the administration which happens to be in power for the time being?

Mr. GOMPERS. Yes, sir.

Mr. FLOYD. What you desire is for us to give you a legal status under the law?

Mr. GOMPERS. Yes, sir.

Mr. FLOYD. So you can carry on this cooperative work on behalf of the laborers of the country and of the different organizations without being under the ban of the existing law?

Mr. GOMPERS. Yes, sir.

Mr. President, if that were the law as stated, I would vote for its repeal; but I submit that no respectable court has ever so held. All organizations are legal unless there is something in the law which makes them illegal. Labor organizations have been recognized time out of mind, and I hope they always will be. If I were a laboring man, I would be an organization man; and if I were an employer of labor, I would encourage my men to be organization men, because I believe labor organizations have been an instrumentality of very great good in this country.

I now yield to the Senator from Idaho.

Mr. BORAH. Mr. President, as I understand the case to which Mr. Gompers referred in his testimony there, the Glassworkers' case, in which it is said that the organization was proceeded against under the Sherman law, it was a case arising in the Senator's State. I was going to ask the Senator if it is his purpose to discuss that case, or if he is familiar with the facts?

Mr. POMERENE. I am not familiar with the facts in the case.

Mr. BORAH. I have made some investigation in regard to it, and my investigation leads me to the conclusion—it was a case of a nisi prius court—that it was not a proceeding under the Sherman law at all, but under the common law and the statutes of the State of Ohio.

Mr. POMERENE. I am very much obliged to the Senator for his statement.

Mr. BORAH. I shall not take up the time of the Senator now in discussing it.

Mr. CULBERSON. Mr. President——

The PRESIDING OFFICER (Mr. NORRIS in the chair). Does the Senator from Ohio yield to the Senator from Texas?

Mr. POMERENE. I do.

Mr. CULBERSON. I should like to ask the Senator from Ohio if he has examined the case in West Virginia, the opinion in which was delivered by Judge Dayton a year or two ago, in which it was held under the Sherman law that labor organizations were illegal?

Mr. POMERENE. I have not. But does the Senator say that that was so held without any other accompanying facts?

Mr. CULBERSON. I have sent for the book. I make the general statement that labor organizations were held to be illegal by Judge Dayton.

Mr. POMERENE. If that be true, then——

Mr. HUGHES. Mr. President——

Mr. POMERENE. Pardon me just a minute. If that be true, it has not been recognized as a precedent; and if it be true, the judge made a mistake—just such a mistake as he could make or any other judge that was not well informed as to the law.

Mr. HUGHES and Mr. HOLLIS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield, and if so, to whom?

Mr. POMERENE. I will yield to the Senator from New Jersey, but I——

Mr. HUGHES. I desire to ask the Senator if he is familiar with the various decisions that were handed down in the Danbury Hat case?

Mr. POMERENE. I am.

Mr. HUGHES. The Senator, then, doubtless will remember that in one of the courts—I forget whether it was the Supreme Court or the other court—the opinion held that the Sherman antitrust law acted in the Federal jurisdiction as the common law acted in the various States, and that it was even broader than the common law so far as restraints and monopolies were concerned. If that be so, of course the Senator is familiar with the fact that in the absence of a statute and under the common law of England any three or more men who simultaneously withdraw from an employer's employment are guilty of a conspiracy.

Mr. POMERENE. Oh, Mr. President, I am not going to take time to discuss the common law of England, except to say that the hostile and vicious decisions which are rendered by the English courts—and I speak generally now; there may be exceptions—were under statutes passed by Parliament and not under the common law; and whatever may have been the common law or statute law in England upon that subject, the rule has never obtained in the United States that an organization of laboring men did not have the right to organize and strike for higher wages or for shorter hours or for better conditions.

Mr. HUGHES. Mr. President, I know the Senator does not wish to make a misstatement.

Mr. POMERENE. Certainly not.

Mr. HUGHES. I wish to call his attention to a case which arose in my own State. It was brought home to me with peculiar force by reason of the fact that the craft which was affected was a craft of which my own father was a member. He was at that time an iron molder in the city of Paterson. The strike occurred in a molding shop, and 14 or 15 iron molders simultaneously withdrew from that employment. They were indicted as common-law conspirators and were sent to the penitentiary. The Legislature of the State of New Jersey at its next meeting passed an act which is in substance the act which is before us now, providing that these men could do these very things, and that they would not be conspirators under the common law.

Mr. POMERENE. Mr. President, I think I limited my statement to the general proposition. If there has been a case here and there in which the law has been too severe in its provisions or administration, we can not correct that by this kind of legislation. The matter to which the Senator has referred was a local matter, under a local statute, or under the local common law.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Minnesota?

Mr. POMERENE. I yield to the Senator; and after that I feel that I ought to be permitted to go on without interruption.

Mr. NELSON. I dislike to interrupt the Senator; but I simply rose for the purpose of calling his attention to the fact that, under the practice and procedure of the United States Government, we have no common-law offenses.

Mr. POMERENE. Very true.

Mr. NELSON. All criminal offenses against the United States are statutory offenses; and the cases to which the Senator from New Jersey has referred were cases arising under the local law in that State. I may further add that, I think, in most of the States they have few if any common-law offenses; they are nearly all statutory offenses of the State.

Mr. POMERENE. I think the Senator has correctly stated the proposition.

Now, Mr. President, if I may be permitted to proceed with my argument without any further interruption, I shall appreciate it. It is very warm, and I feel that my strength will not permit me to continue for the entire afternoon.

I desire now to call the attention of the Senate to the law as I conceive it to be in the United States; and I wish to read a paragraph from United States *v.* Cassidy (67 Fed. Rep., 700):

The employees of railway companies have a right to organize for mutual benefit and protection and for the purpose of securing the highest wages and the best conditions they can command. They may appoint officers, who shall advise them as to the course to be taken in their relations with their employer, and they may, if they choose, repose in their officers authority to order them, or any of them, on pain of expulsion from their union, peaceably to leave the employment because the *terms* thereof are unsatisfactory. But it is unlawful for them to combine and quit work for the purpose of compelling their employer to withdraw from his relations with a third party for the purpose of injuring that third party.

This follows the opinion of Judge Taft in Thomas *v.* Railway (62 Fed., 817).

Again I wish to call the attention of the Senate to the case of United States *v.* Workingmen's Amalgamated Council (54 Fed., 994). Paragraph 5 of the syllabus reads:

The fact that a combination of men is in its origin and general purposes innocent and lawful is no ground of defense when the combination is turned to the unlawful purpose of restraining interstate and foreign commerce.

A combination of men to secure or compel the employment of none but union men becomes a combination in restraint of interstate commerce within the meaning of the statute when, in order to gain its ends, it seeks to enforce, and does enforce, by violence and intimidation, a discontinuance of labor in all departments of business, including the transportation of goods from State to State and to and from foreign nations.

This is one of the cases which has been referred to repeatedly before our committees as being in support of the proposition that an organization of this character was per se a violation of the law, but an examination of the opinion delivered by Billings, district judge, shows that there were acts of violence of the rankest kind, and a part of the evidence in the case shows this:

To the representative of a morning paper Assistant State Organizer Porter said the outlook for successful strike was most excellent and promised that every union in the city would stand by the locked-out workmen. He said it was possible a general strike would be ordered and that labor is determined to win this struggle. A union man who was with Mr. Porter is represented to have said that the strike will be made a victory of the laboring classes of the city, and unless the unions are recognized there will be more bloodshed than imagined. Mr. Porter is reported to have added, "We propose to win by peace if we can, but if we are pushed to the wall force will be employed."

In this particular case the entire commerce of the city, interstate in character, had been interfered with.

Mr. President, I have here a large number of authorities, and, without taking the time of the Senate to read them all, I ask permission to incorporate them in my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Trades-unions are not unlawful combinations so long as they do not resort to acts tending to destroy freedom of action, such as intimidation, threats, or violence. Hence it is not contrary to public policy or illegal for a member of a union to combine with others for the purpose of maintaining wages or limiting the number of apprentices. (Longshore Printing Co. *v.* Howell, 46 Am. St. Repts., p. 640.)

Trades-unions and labor organizations must depend for their membership upon the free choice of each member and his perfect freedom of action. No resort can be had to violence, threats, intimidation, or other compulsory methods in matters concerning membership, or to enforce the observance of their laws, rules, and regulations.

Strikes among workingmen are not necessarily unlawful, though they may become both illegal and criminal by the means employed to enforce their objects. Employees may lawfully quit their service either singly or in a body, but if unlawful means are used to uphold or maintain a strike, or if the end to be attained is unlawful, then the strike itself is unlawful. (Longshore Printing Co. *v.* Howell, 46 Am. St. Repts., 640.)

In the above-cited case, Judge Wolverton, at page 646, in discussing the statement "that there is no such thing as a legal or peaceful 'strike,'" cites the following case:

Justice Harlan, in the now celebrated case of Arthur *v.* Oakes (63 Fed. Rep., 327), says: "We are not prepared, in the absence of evidence to hold, as a matter of law, that a combination among employees having for its object their orderly withdrawal in large number or in a body from the service of their employers, on account simply of a reduction in their wages, is not a 'strike' within the meaning of the word as commonly used. Such a withdrawal, although amounting to a strike, is not, as we have already said, either illegal or criminal."

An employee has an unquestionable right to place a price and impose conditions upon his labor at the outset of his employment, or, unless restrained by contract obligations, upon the continuance of his labor at any time thereafter, and, if the terms and conditions are not complied with by the employer, he has a clear right to engage, or having engaged in the service to cease from work, and what one may do all may lawfully combine to do for the purpose of rendering their action more effective. But this right of combination and to strike or quit the employment must be exercised in a peaceable and lawful manner, without violence or destruction of property or other coercive measures intended to prevent the employer from securing other employees, or otherwise carrying on his business according to his own judgment.

It is the right of labor to organize for lawful purposes, and by organic agreement to subject the individual members to rules, regulations, and conduct prescribed by the majority; and the courts can not enjoin the officers or committees of such an organization from counseling or ordering a strike in the exercise of authority given them by the laws and sanctioned by a majority of its members, nor can such action be made the basis of a charge of malicious conspiracy. (Wabash R. R. Co. *v.* Hannahan et al., 121 Fed., 563.)

The members of a labor union may, singly or in a body, quit the service of their employer; and for the purpose of strengthening their association they may persuade and induce other workmen to join their union, and as a means to that end refuse to allow their members to work where nonunion labor is employed.

It is not unlawful for members of a labor union to go upon premises, with the owner's permission, for the purpose of enticing or ordering their associates to desist from work thereon unless their conduct is so persistent and annoying to the owner or contractor as to constitute a nuisance. (Gray *v.* Building Trades Council, 103 Am. St. Rep., 477.)

In the above cited case Judge Brown, at page 485, says:

Labor may organize, as capital does, for its own protection and to further the interests of the laboring class. They may strike and persuade and entice others to join them; but when they resort to unlawful means to cause injury to others with whom they have no relation, contractual or otherwise, the limit permitted by law is passed and they may be restrained.

In National Protective Association *v.* Cummings (170 N. Y., 321), Chief Justice Parker says:

What one man may do alone he may do in combination with others, provided they have no unlawful object in view. Mere numbers do not ordinarily affect the quality of the act. Workingmen have the right to organize for the purpose of securing higher wages, shorter hours of labor, or improving their relations with their employers. They have the right to strike; that is, to cease working in a body by prearrangement until a grievance is redressed, provided the object is not to gratify malice or inflict injury upon others, but to secure better terms of employment for themselves. A peaceable and orderly strike, not to harm others but to improve their own condition, is not in violation of law.

This principle was laid down by the lower court and affirmed by the Court of Appeals of New York:

Laborers have a right to organize, and they will not be restrained by injunction from leaving the service of their employers, even though their action in so doing involves a breach of contract; but when the union and its officers and members agree together to prevent the employers from hiring other persons, by calling a strike and using force, threats, intimidation, and picketing, they have entered into an unlawful undertaking, which may be enjoined by a court of chancery. (Franklin Union *v.* The People, 220 Ill., 357.)

In the foregoing case of Franklin Union *v.* The People (220 Ill., 357), at page 377, Judge Hand says:

It will be readily conceded by all that labor has the right to organize as well as capital, and that the members of Franklin Union, No. 4, had the same legal right to organize said union as the members of the Chicago Typothetae had to form that association, and that the members of Franklin Union, No. 4, had the legal right to quit the employment, either singly or in a body, of the members of said association, with or without cause, if they saw fit, without rendering themselves amenable to the charge of conspiracy, and that the courts would not have been authorized to enjoin them from so doing even though their leaving the employment of the members of the association involved a breach of contract.

(Ohio, 1889) Workmen have the right to organize into unions for the common benefit of their members, for the purpose of advancing their scale, and for mutual charities. (Parker *v.* Bricklayers' Union, 10 Ohio, Dec. 458.)

Since the act of 1883 (Rev. Sup., p. 774, N. J.), it is not unlawful in this State for the members of an association to combine together for the purpose of securing control of the work connected with their trade, and to endeavor to effect such purpose by peaceable means. (Mayer et al. *v.* The Journeymen Stonecutters' Association, N. J. Eq., 47, 519.)

1. Under the Declaration of Rights, article 1, guaranteeing to all men the right of acquiring, possessing, and protecting property, laborers can legally combine into a labor union, with limitation on what it can do by the existence of the same right in every other citizen to pursue his calling as he may deem best, and the further limitation, coming from the increased power of organization, that what is lawful for an individual is not necessarily lawful for a combination. (Pickett *v.* Walsh, 78 N. E. Rep., 753.)

At one time it was held by the courts that combinations of workmen to effect a desired end were illegal and indictable, but the later authorities both English and American, agree that trade-unions, in the ordinary acceptance of that term, are not unlawful combinations so long as they do not resort to acts of violence or endeavor to accomplish some end that is contrary to public policy. It is then not illegal per se for a union to adopt and endeavor to maintain a scale of wages, or to endeavor to limit and regulate the employment of apprentices.

A "strike" among workmen is not per se illegal or criminal, though it may become both by the means employed to enforce its objects. Workmen may quit the services of an employer, either singly or in a body, as they may see fit, and they may not be either enjoined or prosecuted for so doing unless the end to be attained or the means used to attain it be unlawful. (Longshore Printing Co. *v.* Howell, 26 Oreg. Repts., 527.)

In Lake Erie & Western Railway *v.* Bailey District Judge Baker, in his opinion at page 495 (Fed. Rep., 61), says:

The court recognizes the right of any man or number of men to quit the service of their employers, and it recognizes the right of men to organize if they deem it expedient to better their condition. It also recognizes the hardships of the life of the average laboring man. Their conditions are often such as to touch the sensibilities of a feeling heart. The court is also aware of the scanty wages which they often receive, and of their long and arduous hours of service, frequently exposed to the rigors of an inclement season. * * * I confess I can not look with any degree of tolerance on the false and dangerous teachings of those who actively, or by their silent acquiescence, are teaching labor organizations to think that because they are organized in associations they have the right to seize property or by intimidation to prevent well-disposed people from laboring. * * * I think that such organizations for lawful purposes are to be commended; but when they combine and confederate for the purpose of seizing other men's property, or when they undertake by force and intimidation to drive other men away from employment, and thus deny them the right of earning a livelihood, they commit a crime. There ought to be blazed on the mind of every man that belongs to a labor organization, as with a hot iron so that he shall know and understand it, that while it is lawful and commendable

to organize for legitimate and peaceful purposes, it is criminal to organize for the invasion of the rights of others to enjoy life, liberty, and prosperity.

Mr. POMERENE. I wish to read a paragraph from the work of Frederick H. Cooke on "Combination, Monopolies, and Labor Unions." In discussing the legality of strikes, at paragraph 53, he says:

As has been seen, there has existed a tendency at least to apply the element of combination as a test of liability for acts of employees. Such tendency has been manifested in the alleged doctrine that a mere combination to obtain an increase of wages is illegal as a criminal conspiracy. The origin of this supposed doctrine appears on a consideration of the social conditions that had prevailed in England for centuries, producing a series of statutes dating as far back as the fourteenth century, operating most oppressively on the laboring classes. But this doctrine never gained foothold in this country, where it has been generally repudiated, and it may be regarded as established here, as a common-law principle, that a combination among wageworkers for the purpose of obtaining an increase of wages as well as for any other lawful purpose is entirely lawful, the only question of legality being as to the means employed. And as a result of recent elaborate investigation it must be considered as settled that the alleged doctrine never existed in England, independently of statute.

Again I desire to read from Judge Anderson in his instructions to the jury in the dynamite cases. He said:

It was not unlawful for the structural ironworkers to organize the union to which they belong. It is not unlawful for the defendants to be members of that or any other labor organization. Men have the right to use their combined power through such organizations to advance their interests in any lawful way; but they have no right to use this power in the violation of the law. Organized labor is not on trial here nor is the right of labor to organize an issue; but members of labor organizations owe the same obedience to the law and are liable to the same punishment for its violation as persons who are not members of such organizations.

(Page 1078 of the hearings before the subcommittees of the Committee on the Judiciary, United States Senate, which had under consideration H. R. 15657, Jan. 6, 1913.)

A very interesting work upon this subject of labor conditions is the late work of Martin on The Modern Law of Labor Unions. Sections 9, 10, 11, 12, 13, and 15 of this work read as follows:

Section 9: The purposes for which combination is permissible—in general.

Broadly speaking, workmen may combine to obtain any legitimate advantage. They may combine for the purpose of raising their intellectual, moral, and social condition, for social enjoyment, to afford members assistance in times of poverty, sickness, and distress; for the advancement and development of the intelligence of the members, and in consequence their skill in their trade or calling; to redress grievances of members; to improve or regulate their relations with their employers; to secure employment for their members; and, according to some decisions, to secure the employment of members in preference to and to the exclusion of other workmen, or to secure control of the work connected with their trade, although, as will be subsequently shown, there is authority which denies the correctness of these last two propositions (pp. 14 and 15).

Citing State *v.* Stockford (77 Conn., 227), Karges Furniture Co. *v.* Amalgamated Woodworkers' Local Union (165 Ind., 421), Com. *v.* Hunt (4 Met. (Mass.), 111, 129), Coeur d'Alene Consol. Min. Co. *v.* Miners' Union (51 Fed., 260), Parker *v.* Bricklayers' Union (10 Ohio Dec., 458), Cigar Makers' Union *v.* Lindner (3 Ohio Dec., 244), Jacobs *v.* Cohen (183 N. Y., 212), Natl. Protective Asso. *v.* Cumming (170 N. Y., 315), Hey *v.* Wilson (232 Ill., 389), Pickett *v.* Walsh (192 Mass., 572), Curran *v.* Galen (152 N. Y., 33), Mills *v.* U. S. Printing Co. (99 N. Y. App. Div., 605).

Section 10: To maintain or advance the rate of wages.

So one of the foremost purposes of organization among workmen is to secure the best wages obtainable, and whatever views may have been formerly entertained on the subject it is no longer open to question that a combination of workmen formed for the purpose of maintaining or advancing the rate of wages is a perfectly legitimate one. They are entitled to the highest wages and the best conditions that they can command. They may fix the price of labor and refuse to work unless it is obtained, and they may have that right both as individuals and in combination. It is of benefit to them and to the public that laborers should unite in common interest and for lawful purposes. They have labor to sell. If they stand together, they are often able, all of them, to command better prices for their labor than when dealing singly with rich employers, because the necessities of the single employee may compel him to accept any terms offered him. It has been well said that if it is lawful for the stockholders and officers of a corporation to associate together for the purpose of reducing the wages of its employees or of devising other means for making their investment profitable, it is equally lawful for organized labor to associate, consult, and confer with a view to maintain or increase wages (pp. 16 and 17).

Citing numerous cases in all States of the Union.

Section 11: To obtain reduction of hours of employment.

So workmen may lawfully combine to obtain a reduction of the hours of employment, for the same reason that authorizes a combination to advance or maintain the rate of wages. A demand that wages should be paid during working hours amounts merely to a demand for a shorter day and the attainment thereof is a legitimate object of a combination (p. 16).

Section 12: To secure careful and competent fellow workmen.

The securing of careful and competent fellow servants in order to diminish the risk incident to employment is a legitimate object of a combination among laboring men. The reason for this is obvious. In the event of injury by the negligence of a fellow servant, except where the rule is changed by statute, the burden would have to be borne by the injured servant without compensation by the master, and with no financial responsibility as a general rule on the part of those causing the injury (p. 16).

Section 13: To accumulate strike fund or fund for unemployed members.

The accumulation of a strike fund for the support of those who feel that the wages offered are below market prices is one of the legitimate objects of a labor organization, as is also the accumulation of a fund for the unemployed members of the association (p. 17).

Citing Thomas *v.* Cincinnati R. Co. (62 Fed., 803); see Hitchman Coal Co. *v.* Mitchell (172 Fed., 963).

Section 15: Limitations on the right of combination.

The limitation on the right of workmen to combine for their own benefit and protection is that in the exercise of this right the property and rights of others must be respected. A labor union being an organization brought about by the exercise on the part of its members of the right of every citizen to pursue his calling as he thinks best is limited in what it can do by the existence of the same right in each and every other citizen to pursue his or their calling as he or they may think best. Workmen who have combined into a union can not have, under the law of equal rights, a liberty of contracting as they please, working when they please, and quitting when they please, which does not belong alike to nonunion men and employers of labor. It was said by an early commentator on the law of trade unions that "every person has a right under the law, as between him and his fellow subject, to full freedom in disposing of his own labor or his own capital according to his own will. It follows that every other person is subject to the correlative duty arising therefrom, and is prohibited from any obstruction to the fullest exercise of this right which can be made compatible with the exercise of similar rights by others." The law sanctions no combinations either of employers or employees which have for their immediate purpose the injury of another or the unjustifiable interference with his rights and privileges. It is the absolute, unqualified right of every employee, as well as of every other person, to go about his business unmolested and unobstructed, and free from intimidation, force, or duress (pp. 18 and 19).

Mr. President, I dare say that there will be few if any authorities found in conflict with the general principles which have been laid down in the opinions which I have cited or in the text writers to which I have referred.

Now, what becomes of the proposition which is made the basis of this legislation that labor has no right to organize, no right to strike for higher wages or shorter hours or better conditions? No authority has been cited, and, I dare say, none can be cited in this country, where the right to organize, to strike, and to do peaceful picketing is denied, unless it be prohibited by some special statute of some State.

It seems to me that it is unfair to the laboring men themselves, it is unfair to the country, it is unfair to Congress, it is unfair to the courts, to say that there is any principle of law recognized in this country which would permit the dissolution of an organization of employees unless they have been guilty of some unlawful acts. I take it that the friends of this bill would not contend for one moment that if an organization had been once properly organized and set out in a criminal course to do criminal acts that the law ought not to intervene even to the extent of using drastic measures, not to say decreeing dissolution.

Mr. President, under the law, as I conceive it, in this country men may strike for better wages, shorter hours, or, in general, for the betterment of their condition, and they may do peaceful picketing. Why, then, should we attempt to change this law, and to change it in the form that it is here in section 7? This section, note, attempts to say "that nothing in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help," and so forth, or to forbid or restrain individual members of such organization from lawfully carrying out the legitimate objects thereof; and then the last paragraph says:

Nor shall such organizations or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

The first part of this section permits their operation without any qualification of any kind. When it comes to the individual members it says, "or to forbid or restrain individual members of such organization from lawfully carrying out the legitimate objects thereof." There is no qualification at all on the operation of the organization. The individual must act lawfully. Applying the usual rules of construction, it follows that the operation of the organization may be either lawful or unlawful, legitimate or illegitimate. Why limit the individual to lawfully carrying out the legitimate objects of the organization and place no limitation on the organization?

Again, what are the legitimate objects? Why not attempt to define them? No one has attempted it. Does the word "legitimate" not cover every attempt that may be made to accomplish their purpose? Does it mean that the commerce of the country may be entirely tied up by the efforts of some men who do not appreciate the obligation of citizenship? Does it mean that it shall be confined to efforts to obtain a reasonable wage or a wage that would be concededly unreasonable under any and all circumstances? Does it mean to apply only to the obtaining of reasonable hours, or does it permit them to demand unreasonably short hours? Does it mean they may strive for

reasonably good conditions, or for conditions which it would be impossible for the average employer to bestow? It seems to me that if this is to become the law there ought to be some attempt to explain what was in the mind of Congress when it attempted to place it upon the statute books. Again, the last paragraph:

Nor shall such organizations or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

Does it mean under no circumstances? Does it mean no matter what their acts are, they shall not be amenable to the law?

Mr. President, most of the laboring men are high-class men, of high purpose and high character. They want their rights and they want to be law-abiding citizens. It is not for that class of men that laws are made. We all recognize the fact that in every avenue of life there are men who will transgress the law and who do transgress the law. I recognize the fact that there are many employers in this country who have ground their labor down, and for them I have no word of sympathy of any kind. On the other hand, we must be entirely fair in this matter and at the same time we have in mind the employers who are unfair we must remember that there are some men who are speaking in the name of labor who likewise are unfair. Laboring men should not be placed at the mercy of the merciless employer. On the other hand, the good employers—and that embraces the greater part of them—ought not to be placed at the mercy of a few labor leaders who do not have a proper appreciation of their duty to the public. There are two sides to this question, as there are to most questions.

Mr. President, I know it is contended that the arm of injunction should never be used in connection with these disturbances. I concede that it has been too frequently used—used when it ought not to have been used—and injunctions granted without notice. Of course, that should be corrected; but, on the other hand, permit me to say that I believe the injunction has often prevented violence which all would regret had it occurred. I recognize the fact that most of the labor leaders of this country abhor violence; that they teach and speak against it; that they give their commands against it. But we all know that it sometimes happens that the wisest and most influential of leaders can not control some of their men. What is to be done under those circumstances?

Mr. President, when there is a labor disturbance generally the first desire is to have some sort of mediation or adjustment. I wish that were always true. The second is, if there is likely to be any disturbance the officers of the peace are called in. If that fails then the practice has been to invoke the equity arm of the court to stay any effort at violence. If that fails, what next? There is only one other recourse, and that is to call in the military where there is such a disturbance as can not be controlled by other means.

Am I wrong when I say that by so much as you cripple the arm of injuction in a proper case, by so much you are increasing the possibility of calling out the military? I hope the day will never come in this country when the military will be called out to stay any labor difficulty of any kind. The public will not tolerate violence. The peace must be preserved. If it can not be done by the police or the courts, the military will be summoned. Ought we not to use the courts where we can, and only resort to the military when all other possible means have failed?

Mr. President, my belief has always been that labor and capital are not to be treated as if in two separate camps. They are partners in a common purpose. They ought to be together. I believe in industrial peace. I do not believe in industrial war, and that is the basic thought in this section in my judgment. Section 7 and section 18 treat this subject as if employer and employee were in two opposing camps. You are never going to get these two elements of our society together by that kind of means. I will do anything in my power to bring them together, either by vote or voice. I will not do anything consciously to get them apart, and if there is a proper disposition exercised by employer and employee there will be less of trouble in this country.

Permit me to call the attention of the Senate to a beautiful picture of the relations which exist between one of the great employers in Ohio and his employees. I read a paragraph from a speech delivered by Col. James Kilbourne, president of the Kilbourne & Jacobs Manufacturing Co., in the city of Columbus, one of the largest employers of labor in central Ohio. Speaking of the hard times during the panic of 1893, 1894, and 1895, he says:

I could relate innumerable instances showing their loyalty—

Referring to his employees—

and devotion to our interests, but one will, I think, suffice, the like of which I have never heard of before or since. Some weeks after the beginning of the great panic of 1893, when trouble and desolation were spreading over the land, there filed into my office at our shops one morning some 15 or 20 men, representing the different shops of our works. They bore serious countenances and a serious manner, and my heart sank within me. One of my most earnest hopes had been that there should never be any trouble between our employees and myself, and I thought, "Here it has come at last."

Finally one of the men arose and said: "Mr. Kilbourne, we have hesitated about coming here; we have thought about it a great deal, and believe we are right, and we hope you will receive the suggestion we have to make in the spirit in which it is offered. We have seen in the daily papers accounts of the failure of this firm and that firm and the other firm, which had existed for many years, and were thought to be strong enough to resist any panic. We know that your warehouses are filling up with goods. We know that, as is the case with other manufacturers, you can not sell the goods you are making to-day and can not get your pay for the goods you have sold. We do not know what your circumstances are, but we fear they may be like those of other men who have failed. Some of us have been here a few years, some of us many years, some of us almost a generation. We have had good pay, we have been able to save up some money, and while the individual savings are not very large, the aggregate is a very considerable sum. We have come to tell you that it is all yours, to do with it what you please, if you need it in the interests of your company."

That is a picture of conditions as they ought to prevail in every factory, and that is a condition which would prevail in many instances if the extremists on both sides of this proposition were more disposed to get together, and I trust that the Congress will help them to get together.

Mr. President, I want to call the attention of the Senate to another peculiar provision of this section 7. For some unaccountable reason it has been sought to place in this section a provision exempting agricultural associations from the provisions of the Sherman law. I should like to know where the sentiment comes from that demands it. We have agricultural organizations galore in my State, doing splendid work. I have not heard from a single one who asked that agricultural organizations should be included in an exemption under this law.

On the contrary, Hon. A. P. Sandles, president of the Agricultural Commission of Ohio, writes me under date of July 10, 1914:

You are right in opposing exemption of farmers from provisions of antitrust laws.

Farmers ask no favors. Justice and equal consideration in governmental affairs is their creed and demand.

During the past week or 10 days the papers of the country have been calling attention to the increasingly high cost of living. Products of all kinds that are offered in the markets are going higher and higher. It has attracted the attention of the President himself. Congressmen have desired it to be investigated. All over the United States social organizations are inquiring into it. Everybody regrets it. We thought we were about to reduce the price of living, and I think, all things considered, we have done so by some of our legislation. And now comes a proposition whereby the Congress is putting itself on record to legitimatize agricultural organizations for the purpose of increasing the cost of living. Consistency ought to be a jewel now as it has been in other days.

One of the peculiar ironies of this section is this: There are consumers' leagues all over the country, and one of their objects is to reduce the cost of living, and they are eliminated from this bill. So if consumers were to get together and combine in interstate matters in an effort to reduce the cost of articles and thereby restrain trade, they would be amenable to the law; but the bill allows the producers of the country to get together for the purpose of increasing the price. It denies to the consumer the right to combine to reduce the cost of living while it gives the producer the right to combine to increase the price of his produce.

Mr. President, the labor and agricultural provisions of this bill received consideration at the hands of Congress during the closing days of the administration of President Taft. He vetoed the sundry civil appropriation bill at the time for two reasons—first, because he doubted its constitutionality, and, secondly, because he doubted the policy of it. I do not care this afternoon to discuss the question of the constitutionality of this provision. I am frank to say that I am disposed to think that Congress in its wisdom might eliminate both classes from the operation of the Sherman law, though I am not certain about it. I address myself only to the question of the policy.

Later on, when this same bill was passed by the present Congress, President Wilson said in signing the bill:

I have signed this bill because I can do so without, in fact, limiting the opportunity or the power of the Department of Justice to prosecute violations of the law by whomsoever committed.

If I could have separated from the rest of the bill the item which authorized the expenditure by the Department of Justice of a special sum of $300,000 for the prosecution of violations of the antitrust law, I would have vetoed that item, because it places upon the expenditure a limitation which is, in my opinion, unjustifiable in character and principle. But I could not separate it. I do not understand that the limitation was intended as either an amendment or an interpretation of the antitrust law, but merely as an expression of the opinion of the Congress—a very emphatic opinion, backed by an overwhelming majority of the House of Representatives and a large majority of the

Senate, but not intended to touch anything but the expenditure of a single small additional fund.

If it was wrong in principle at that time to exempt any element of society from the provisions of the law it seems to me that the same rule should obtain now.

Mr. President, section 18 of this bill is to my mind of somewhat uncertain phraseology. I have been trying to find out what it means. I trust I am guilty of no impropriety when I say that I have had three different opinions from members of the Judiciary Committee: One to the effect that it legalizes the secondary boycott; another to the effect that it does not; and the third to the effect that he did not know. I should like to know whether it does or not. It is pretty difficult to understand the language which is used in the middle of this section:

And no such restraining order or injunction shall prohibit any person or persons whether singly or in concert from terminating any relation of employment or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from peacefully persuading any person to work or to abstain from working; or from withholding their patronage from any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do.

Does that apply simply to the employer and the employee or does it apply to the use of means in connection with a third party? I do not know. If it is simply a legalizing of the primary boycott it is legal now; if it is an attempt to legalize the secondary boycott I am opposed to it, and I understand that most of the States have legislation upon that subject. I think that in principle it is altogether vicious.

Let me call attention to some of the examples of secondary boycott.

I take a different view of this subject from that of some of my friends. I do not believe that this struggle is going to be fashioned after the manner of war. If there is a difference between the employer and the employee and they can not agree, the employees can strike or there can be a lockout, and all the peaceful means incident to such methods may be employed; but because I, as an employee, have a difference with a company employing me and we can not agree, is that any reason why I should attempt to embroil somebody who may be in California in his relations with my employer? There must be an end somewhere.

Let me suggest, before I go into this matter further, that this bill, if it should be enacted, can have no effect upon intrastate commerce; it only applies to interstate commerce. When we are trying to weigh the merits and the demerits of a bill we ought to give grave consideration to the question as to whether or not the good that is to be accomplished is outweighed by the evil that may be consequent upon such legislation.

If this section means to legalize the secondary boycott, there is no limitation here of any kind; it legalizes all kinds of boycotts. Now, let us see how good a weapon that is. It was employed in the anthracite coal strike, and there is a splendid report on that subject by the commission which was appointed by President Roosevelt, consisting of Brig. Gen. John M. Wilson, Mr. E. W. Parker, Judge George Gray, Mr. Edgar E. Clark, Mr. Thomas H. Watkins, and Bishop John L. Spalding. Under date of March 18, 1903, they submitted their report. I want to read a paragraph from it:

Examples of such "secondary boycotts" are not wanting in the record of the case before the commission. A young schoolmistress, of intelligence, character, and attainments, was so boycotted and her dismissal from employment compelled for no other reason than that a brother, not living in her immediate family, chose to work contrary to the wishes and will of the striking miners. A lad, about 15 years old, employed in a drug store, was discharged, owing to threats made to his employer by a delegation of the strikers, on behalf of their organization, for the reason that his father had chosen to return to work before the strike was ended. In several instances tradesmen were threatened with a boycott—that is, that all connected with the strikers would withhold from them their custom and persuade others to do so—if they continued to furnish the necessaries of life to the families of certain workmen, who had come under the ban of the displeasure of the striking organizations. This was carrying the boycott to an extent which was condemned by Mr. Mitchell, president of the United Mine Workers of America, in his testimony before the commission, and which certainly deserves the reprobation of all thoughtful and law-abiding citizens. Many other instances of boycott are disclosed in the record of this case.

Again, at page 78 of the report, the commission says:

The practices which we are condemning would be outside the pale of civilized war. In civilized warfare, women and children and the defenseless are safe from attack, and a code of honor controls the parties to such warfare which cries out against the boycott we have in view. Cruel and cowardly are terms not too severe by which to characterize it.

If you will turn to the record of the testimony of this case you will find that the words "cruel and cowardly" were the words used by Mr. Mitchell himself; and yet if this section legalizes the secondary boycott, the Congress of the United States is called upon to give an indorsement to conduct of this kind which is cruel and cowardly. The report continues:

The commission is of opinion, however, that there should be a positive utterance on its part relative to discrimination, interference, boycotting, and blacklisting, and this opinion it has put in the form of an award, as follows:

"It is adjudged and awarded: That no person shall be refused employment, or in any way discriminated against, on account of membership or nonmembership in any labor organization; and that there shall be no discrimination against, or interference with, any employee who is not a member of any labor organization by members of such organization."

Mr. President, I want to call to the attention of the Senate the views of some of the labor leaders themselves upon the question of boycott. I have here at my desk the work of Harry W. Laidler on Boycotts and the Labor Struggle. On page 97 the author quotes from the reports of the bureau of statistics and labor of New York State, and I ask to introduce that without reading, because I do not care to take the time to do so.

The PRESIDING OFFICER (Mr. WALSH in the chair). In the absence of objection, permission to do so is granted.

The matter referred to is as follows:

The boycott is not in this country attended with violence, except in the case of foreigners.

Organized labor has attained that period in its development when it can see the necessity of wielding this potent weapon with extreme caution. Time was when the boycott was declared at the slightest provocation. Not so now, for the record proves that the organizations are loath to use it except in a prudent way, and then as a last resort.

The injury to labor of any abuse is thus stated:

It (the boycott) has nearly always proved successful when the parties who applied it represented a public or moral sentiment. If it is allowed to degenerate into a simple fight between competing firms, and if the pretended leaders of the labor movement assume to apply it indiscriminately, foolishly, and maliciously, it will result in complete disaster to the movement itself.

The attitude of labor leaders concerning the boycott's use is thus set forth:

It may be remarked that the more advanced thinkers in the ranks of labor disapprove of the boycott except in extreme cases in which no ordinary remedy is attainable.

Mr. POMERENE. Again, on page 107, the author says:

If wielded thoughtlessly the boycott on the transportation system could undoubtedly play havoc with the business of the country. On the other hand, there is no business in which the abuse in the conduct of this weapon brings a more immediate and pronounced condemnation from the public.

At page 110, the author says, with respect to the convention of the American Federation of Labor held in 1885:

In this convention the unscrupulous use of the boycott by other organizations, presumably the Knights of Labor, was vigorously condemned. These organizations were accused of employing this weapon on "frivolous, trivial, and imaginary grievances" without giving the question the attention and thorough investigation which it required. The convention voted that no boycott be approved by the federation, until it had been carefully considered by the legal committee.

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In its convention in 1886 the author says:

It advocated only the boycott's careful and energetic use as a last resort.

* * * * * * *

On page 111 the author says:

The federation, in 1898, took a decided stand against the circularizing of its unions with boycott literature without its official indorsement, declaring that "the continuous and overwhelming flood of boycott circulars leads to confusion and ineffectiveness." The same year it took steps toward limiting particularly boycotts of those firms employing union men. The resolution read:

"Whereas the placing of a boycott upon any product the manufacture of which is participated in by two or more crafts may and often does work an injury to union workers: Therefore be it

"*Resolved*, That the American Federation of Labor shall indorse no boycott where the products of several organized unions will be affected thereby until every possible effort has been made to secure a settlement, and all organizations to be affected shall be given a hearing and an opportunity to assist in securing a settlement in which the existing grievance may be settled."

On page 112 the author says:

The boycott committee in 1904 clearly voiced the sentiment of the delegates in its declaration that "if anyone is unjustly placed on the unfair list it tends to injure not only the organization directly in interest, but the entire labor movement."

In 1905 (see Laidler on Boycotts, p. 113) Owen Miller, chairman of the boycott committee of the American Federation of Labor, reported to the convention:

We must recognize the fact that the boycott means war, and to carry on a war successfully we must adopt the tactics that history has shown are most successful in war. The greatest master of war said that war was the trade of a barbarian and the secret of success was to concentrate all forces upon one point of the enemy—the weakest if possible.

In view of these facts the committee recommends that the State federations and central bodies lay aside minor grievances and concentrate their efforts and energies upon the least number of unfair parties or places in their jurisdiction. One would be preferable. If every available means at the command of the State federations and central bodies were concentrated upon one such and kept up until successful, the next on the list would be more easily brought to terms, and within a reasonable time none opposed to fair wages, conditions, or hours, but would be brought to see the error of its ways and submit to the inevitable.

President Gompers, in speaking of the boycott, said (see Laidler on Boycotts, p. 114):

The workers fully realize that the boycott and strike are means to be used to maintain their rights and to promote their welfare when

seriously threatened by hostile, greedy, and unfair employers when no other remedy seems available. With the boycott cleared of wrongful charges and misapprehension and recognized as a lawful right we will find its use diminishing. It will be a power held in reserve and used only when no other remedy is adequate.

We have this anomalous situation: We are asked to legalize an instrument like the secondary boycott, which has been fraught with so much harm not only to the country at large but, according to these authorities and the declaration of the Federation of Labor itself, often to the labor organizations. We are asked to say that there shall be no restraint in the handling of this instrument, save the free will of those who use it.

According to Mr. Gompers:

With the boycott cleared of wrongful charges and misapprehension and recognized as a lawful right, we will find its use diminishing.

In other words, when it is not recognized, when there is no statute regulating it, there will be more perfect peace. "We do not want Government regulation of this instrument, and then we will cease to use it." A defiance of the law by a few—and there are only a few who do it—never breeds respect for any law or any man's rights. By the force of this same logic we should repeal all statutory laws making certain acts penal, because if we did there would be more respect shown for the rights of men.

Mr. President, when we do know that the boycott has been used in such ways as to bring down the condemnation of the labor leaders themselves, such as John Mitchell, it is not quite the right time to come in and legalize that which, in John Mitchell's own words, sometimes, as in the case of the anthracite coal strike in the instances to which I have referred, is "cruel and cowardly."

Mr. President, I fear that in the consideration of this subject we sometimes lose sight of the great third party—the public. I have never heard of a struggle between employer and employee that I did not feel that there were three parties to be considered—the employee, the employer, and the great third party, which embraces both of them, the public.

While we recognize the right to strike—and I would not have it otherwise—it is not always a means of securing what is desired. Workingmen now have a right to strike, but everyone must concede that the fewer times that right is exercised the better. It is of inestimable value, but, paradoxical as it may seem, the less it is used the greater its value.

Let me call the attention of the Senate to some of the statistics upon this subject. I take the following figures from the twenty-first annual report of the Labor Bureau, made in 1906, on the subject of strikes and lockouts, as contained in House Document No. 110:

In the period of 25 years (1881 to 1905) there were in the United States:

Strikes	36,757
Lockouts	1,546
Total disturbances	38,303
Strikes occurred in establishments	181,407
Lockouts occurred in do	18,547
Total	199,954
Total persons involved during said period in strikes	6,728,048
Number of persons locked out	716,231
Total	7,444,279
Total number during said period thrown out of employment:	
By strikes	8,703,824
By lockouts	825,610
Total	9,529,434

Of the 36,757 strikes from 1881 to 1905, there were:

	Per cent.
Ordered by labor organizations	68.99
Begun by employees who were not members of organizations, or who, if members, went on strike without sanction of the organizations	31.01

Of the 181,407 establishments involved in strikes, 90.34 per cent were included in strikes ordered by organizations.

Strikes ordered by labor organizations included 79.69 per cent of all strikers and 77.45 per cent of the total persons thrown out of work in establishments involved in strikes.

Average duration per establishment:

	Days.
Of strikes	25.4
Of lockouts	84.6

Employees won all demands undertaken by strikes in 47.95 per cent of the establishments, succeeded partly in 15.28 per cent of the establishments, failed to win any of their demands in 36.78 per cent.

Lockouts resulted favorable to employers in 57.20 per cent of the establishments, succeeded partly in 10.71 per cent of the establishments, failed in 32.09 per cent.

Strikes ordered by labor organizations were wholly successful in 49.48 per cent of the establishments involved, partly successful in 15.87 per cent, failed in 34.65 per cent.

Strikes not ordered by labor organizations were successful in 33.86 per cent of the establishments involved, partly successful in 9.83 per cent, failed in 56.31 per cent of the establishments.

Eleven thousand eight hundred and fifty-one strikes, or 32.24 per cent of all strikes, were for increase of wages alone; 3,117 strikes, or 40.72 per cent of all strikes, due in whole or in part to demands for increase of wages.

The next most fruitful cause of strikes was disagreement concerning recognition of union and union rules. This cause alone produced 18.84 per cent of all strikes, and both alone and combined with other causes, 23.35 per cent of all strikes.

Objection to reduction of wages alone and combined with other causes produced 11.90 per cent of all strikes.

Demands for reduction of hours alone and combined with other causes produced 9.78 per cent of all strikes.

The most important cause of lockouts was disputes concerning recognition of union and union rules and employers' organization, which cause, alone and combined with various causes, produced nearly one-half of all lockouts and included more than one-half of all establishments involved in lockouts.

Now, Mr. President, let us see how expensive these strikes were. I refer to these matters because I have always felt that if those who are interested on both sides of this problem would in a proper spirit try to get together two-thirds at least of the labor troubles could be avoided and both would profit thereby. Mr. Carroll D. Wright, in an article on arbitration in a book entitled "Labor and Capital," at pages 153 and 154, says:

The record of strikes in the United States for the 20 years ending December 31, 1900, as shown by the United States Department of Labor, would seem to indicate that at times, at least, some drastic measure for the prevention of conflicts might be desirable. This record is that during the period named there were 22,793 strikes, with a wage loss of $257,863,478, a loss through assistance rendered by labor organizations of $16,174,793, and a loss to employers of $122,731,121. The lockouts during the same period numbered 1,005, with a wage loss to employees of $48,819,745, a loss through assistance rendered by labor organizations of $3,451,461, and a loss to employers of $19,927,983. The total losses by strikes and lockouts reached the vast sum of $468,968,581.

Four hundred and sixty-eight million dollars! Is it not worth while to get both employer and employee together rather than to attempt to pass some legislation which treats the subject as if they were warring factions?

Mr. President, I want to call the attention of the Senate to this fact especially: This legislation will not affect those who are engaged purely in manufacturing or mercantile or mining occupations unless the transaction assumes an interstate character. It does affect all those who are engaged in transportation of every character—a matter which is peculiarly a subject for congressional control; a matter to which we ought always to give our most considerate attention. As a matter of fact, the legislation that is here asked is not in the interest of the whole people; it is not in the interest of the laboring classes as a whole; but rather, in view of its interstate character, it should be called legislation in favor of a part of labor as against all labor and as against all the rest of the 100,000,000 inhabitants of the United States.

Let us see how this will operate. A little more than a year ago Congress was called upon suddenly one morning to pass a law providing for mediation of the differences existing between the railways east of Chicago and their employees. We were told that if the bill did not pass within 48 hours all traffic east of Chicago would be tied up. Do we appreciate what that would mean? The bill was passed. The matters were submitted to arbitration. They were settled. A part of the demands of the employees were granted, but not in full. If that award means anything it means that they were reasonable in a part of their demands and they were unreasonable in a part of their demands.

Now, let us suppose that instead of a threatened strike the railways had gotten together and had said, "It is going to be to our interest to combine together and reduce the wages of these employees below a living wage," what would have been the result? The men would have left their employment, and properly so; but the consequence would have been that transportation east of Chicago would have been stopped, and in 10 days centers of population like New York, and Boston, and Philadelphia, and Pittsburgh, and Cleveland would have been starved.

Mr. HUGHES. Mr. President, will the Senator permit an interruption?

Mr. POMERENE. I would prefer not to be interrupted. A little later, after I have finished, I shall be glad to yield, but I prefer not to break the thread of my argument.

Mr. HUGHES. The question I wanted to ask the Senator was right in line with something he has just said.

Mr. POMERENE. Possibly I shall meet it as I go along.

On the other hand, suppose, for the sake of the argument, that the demands of the brotherhoods of railway men had been excessive; that they had asked for something which the trans-

portation lines could not pay; that they had asked for something which in the minds of all reasonable men would have been excessive, and, their demands having been denied, they strike. Traffic would have stopped. Transportation would have stopped. The result on the great centers of population, like New York, and Philadelphia, and Boston, and Pittsburgh, and Cleveland, would have been the same. It is the restraint of trade that we are looking to, and that should be the object of our most respectful attention. What would have been the consequences if they had arbitrarily assumed a stand of this character and their demands had been unreasonable? Who would have suffered in either instance? Would it have been the rich men of New York City or any other of these centers of population? Would it have been the employer class? Yes; but the suffering of the employer would not have been a tithe compared with the suffering of the laboring men in these great cities and of their wives and families, though their relations with their employers might have been most harmonious in character.

Let us take another illustration: Suppose this had been in the dead of winter, and in the anthracite regions of Pennsylvania or the bituminous regions of West Virginia the coal was being taken out. We will assume that the relations between the employers and the miners were most harmonious. They were getting out their coal, ready to ship it to the centers of population to keep the men and the women and the children there from freezing, and the only thing that stood in the way was the lack of means of transportation. The employers in the mining regions, if they could not market their coal, could not pay their men, and the result would be suffering and distress there.

I do not think this situation is likely to arise; but we know we have been on the very brink of such a situation; and only a few days ago one arose with reference to the transportation lines west of Chicago, and we were told that in a short day there was a probability that all the traffic west of Chicago would be tied up if there were not an adjustment. I more than appreciate the splendid efforts of the men on both sides of that controversy to get together and agree to arbitrate and to adjust their differences; but we know, as a matter of experience, that there have been cases in this country which they did not arbitrate. They could not, it seemed. Because of the passion that may have prevailed on both sides, they were not able to arbitrate. Beyond that, let us go a little further. If everyone during a situation such as I have described would keep an even temper, all might go well; but we know that in cases of excitement such as I have referred to there are men who do not control their tempers. They may be sometimes leaders of men on both sides of the proposition, and a little encouragement is given here, a little encouragement there, and the first thing we know the match is applied to the magazine, and there is an explosion that distresses the entire country; and with these strikes there come threats, intimidation, and violence to both person and property.

I am not saying that one side is any more to blame than the other, but I do say that when it comes to a proposition such as this the Government should not tie its hands and prevent itself from making, not an undue use of the power of injunction, but a proper use of the power of injunction. An injunction tends to peace, not to violence. When violence begins the cause is losing ground.

I want to say that while I have the most profound respect for the men who are at the head of the American Federation of Labor and at the heads of the various brotherhoods, we know that sometimes wrongs occur. The best of us may to-day be in a perfectly equable frame of mind, but to-morrow lose our tempers in the intensity of excitement; and we are not always responsible for things which may be done, and if we do control ourselves we are not always able to control those who may be under us.

Let me make a further suggestion in this connection. Let us suppose there should be a strike; that transportation should be tied up; that the courts of equity are not open. We have bound their hands. The public becomes excited. If we were to prohibit the issuance of injunctions what might not happen? If we were to pass a bill which in a proper case would prevent the use of the equity arm, what would our Senators from the South say to the cotton farmer when he could not market his product because transportation was stopped and strikers would not permit the management to resume? What are Senators from the great wheat-growing regions going to say to their constituents when transportation in that region is tied up? What are Senators from the great centers of population going to say if we cripple the hands of the courts so that fuel in the wintertime and food products at all times may not be brought to warm those who are cold and freezing and to feed the hungry?

I recognize the fact that courts have made mistakes, but I want to say at the same time that while some judges have issued wrong decrees they are the exception and not the rule. I am not willing to say, when it comes to a proposition such as this, that the courts are always wrong and that the organizations are always right. I hope there may never be another excuse for applying to a court in any labor struggle of any kind, but I do think a study of poor, weak human nature shows that it is sometimes necessary.

Mr. President, I want to call the attention of the Senate to another very interesting feature of section 18. I read only that part of the section which is pertinent to the point I have in mind:

> That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof—
>
> In controversies between employers and employees—
>
> unless necessary to prevent irreparable injury to property or to a property right.

You must show that there is an irreparable injury to property or to a property right before an injunction shall be granted. In other words, if the employer's property is threatened with violence, if some one goes down in the midst of the trouble and threatens the business, the property, the machinery, the plant itself, and there is no adequate remedy at law, in order to protect that property and that property right an injunction may be issued; but if the men who are employed there are threatened, if they are to be fired at, you can not protect them by the power of injunction. Under section 18, as it is drawn, we have the anomalous situation that property has become more sacred than life or limb or safety!

Mr. President, I have occupied more of the time of the Senate than I had expected to occupy. I say, as I began, that with most of the provisions of this bill I am in entire accord; but I can not give my consent to the exemption of any organization from the operation of the Sherman law. My belief is, as I have instanced in the case of the transportation companies, that the possibilities of harm to the laboring classes and to all classes of our population by the enactment of those parts of this bill to which I have registered my objections would far outweigh any possible good to the laboring classes.

Mr. HUGHES. Mr. President, will the Senator yield to me now?

Mr. POMERENE. I yield to the Senator.

Mr. HUGHES. I want to get the Senator's idea of the effect of the present law upon these transportation strikes. The Senator described a set of circumstances which existed a few days ago and which threatened to involve all the railroads west of Chicago, I think the Senator said, in a general strike. He followed that up by saying that the natural result of that would be a terrific restraint of trade. Now, if that had happened; if that restraint of trade had occurred; if there had been a combination or agreement or conspiracy—call it what you will—of all the employees of all those railroads west of Chicago, and that had resulted, as it necessarily must have resulted, in an absolute restraint or cessation of trade, does the Senator think those conspirators or those in that combination or agreement would have come within the terms of the Sherman antitrust law?

Mr. POMERENE. On the Senator's statement of facts alone, I do not think so; but there are always, let me say——

Mr. HUGHES. I will ask the Senator——

Mr. POMERENE. Pardon me a moment, please. Let me suggest that it is easy enough to pick out a few innocent facts in these matters, on the one hand——

Mr. HUGHES. I am taking the facts the Senator set out.

Mr. POMERENE. Just a moment. Or, on the other hand, to select out all adverse facts; and when we do that, on either side, we are not presenting the situation properly. We know, however, that when there is a condition such as I have described there are always other circumstances which become involved, which, together with what I have described, would make out a perfect case under the law.

Mr. HUGHES. It seems to me that if anything is plain it must be plain that the simultaneous withdrawal from employment on the part of men who are engaged in carrying goods from State to State must result in a restraint of trade. If the Senator thinks it does not, and says so, why, that is all I have to say. I can not imagine a more complete restraint of trade.

Mr. POMERENE. Not those facts alone, but——

Mr. HUGHES. The Senator said in his speech that it would be a restraint of trade.

Mr. POMERENE. I understand all that. It would be a restraint of trade, but the facts which I have referred to alone, perhaps, in the hurried argument I was making, might not make out a case; but there are often other facts and circumstances accompanying these strikes. For instance, if the railroads

should attempt to move their trains by the employment of other men, and were to be interfered with, then certainly a court would interfere.

Mr. HUGHES. I just want to get at the Senator's view, because it is very important. The Senator, then, thinks that the simultaneous withdrawal of a lot of engineers and firemen which resulted in tying up all the railroads west of Chicago, so that no commerce at all could be moved by rail, would not be a restraint of trade unless it was accompanied by violence?

Mr. POMERENE. It is a restraint of trade. Those facts alone, however, without any other complications, might not be a violation of this law.

Mr. HUGHES. It would be a restraint of trade; would it not?

Mr. POMERENE. Certainly it would; but the restraint of trade——

Mr. HUGHES. The statute is directed against restraints of trade.

Mr. POMERENE. Undue restraints.

Mr. HUGHES. It is directed against restraints of trade. The Senator knows that.

Mr. POMERENE. As construed by the Supreme Court, it is an undue restraint of trade.

Mr. HUGHES. An unreasonable restraint of trade.

Mr. POMERENE. Yes.

Mr. HUGHES. Well, surely, if any restraint of trade would be unreasonable, a restraint of trade would be unreasonable which involved every railroad west of Chicago and cut the country in half, and left one half of it with its goods piling up and the other half of the country starving for them. No court could hold that that was reasonable.

Mr. POMERENE. Under those circumstances, would you cripple the law as it now is?

Mr. HUGHES. Would I cripple it? Would I interfere with the right of those men to withdraw?

Mr. POMERENE. Would you interfere with the enforcement of this law if it could be enforced, or if the circumstances were such as to justify it?

Mr. HUGHES. I would interfere with any law that attempted to prevent any American workingman from quitting his job when he got ready, either singly or in combination with anybody else.

Mr. POMERENE. So would I.

Mr. HUGHES. But the Senator does not say that.

Mr. POMERENE. I do say that, and I say it now.

Mr. HUGHES. The Senator turned to me and challenged my statement, and asked me if I would interfere with the law if it prevented that thing.

Mr. POMERENE. My question was whether you would cripple the law under the circumstances.

Mr. HUGHES. I would cripple the law. What would the Senator do?

Mr. POMERENE. I would protect the public, always.

Mr. HUGHES. Very well. Then the Senator would prevent those men from withdrawing simultaneously from that employment.

Mr. POMERENE. If the facts and complications were such as to justify it, under the law, I certainly would do it.

Mr. HUGHES. That is all I want to know.

Mr. HOLLIS. Mr. President, I desire to place in the RECORD a reference to the opinion by Judge Dayton which was referred to a short time ago by the Senator from Texas [Mr. CULBERSON]. It is in the case of Hitchman Coal & Coke Co. against Mitchell et al., in the United States District Court for the Northern District of West Virginia, decided December 23, 1912, and reported in Two hundred and second Federal Reporter, at page 512. At the conclusion of his opinion Judge Dayton says:

> In Loewe v. Lawlor (208 U. S., 274; 28 Sup. Ct., 301) it was held that the Sherman Antitrust Act "prohibits any combination whatever to secure action which essentially obstructs the free flow of commerce between the States, or restricts, in that regard, the liberty of a trader to engage in business; and this includes restraints of trade aimed at compelling third parties and strangers involuntarily not to engage in the course of interstate trade except on conditions that the combination imposes," and that it "makes no distinction between classes. Organizations of farmers and laborers were not exempted from its operation, notwithstanding the efforts which the records of Congress show were made in that direction," and that "a combination of labor organizations and the members thereof, to compel a manufacturer whose goods are almost entirely sold in other States, to unionize his shops, and on his refusal so to do to boycott his goods and prevent their sale in States other than his own until such time as the resulting damage forces him to comply with their demands," is a "combination in restraint of trade."

That is found in Two hundred and second Federal Reporter, at page 556.

APPEALS IN CUSTOMS CASES.

Mr. OVERMAN. I ask unanimous consent to have a little bill passed which is, I think, an emergency measure. It is recommended by the Judiciary Committee. It grants an appeal in customs cases from the Court of Customs Appeals to the Supreme Court of the United States. The Secretary of the Treasury has not that power. There are great questions now in that court involving treaty questions and constitutional questions, and he is bound by the decision of one court. The bill simply provides that he may make an appeal to the Supreme Court of the United States. I therefore ask unanimous consent for the present consideration of the bill (S. 6116) to amend section 195 of the act entitled "An act to codify, revise, and amend the law relating to the judiciary," approved March 3, 1911.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. JONES. Does not the Senator think that matters of this kind could go over until the morning hour?

Mr. OVERMAN. There is no morning hour. That is the trouble.

Mr. JONES. Why can we not have one?

Mr. OVERMAN. I hope we can soon.

Mr. JONES. Does the Senator think we will have one if different matters are disposed of in this way?

Mr. OVERMAN. I think we will have a morning hour soon; but this is a matter which ought to be attended to at once. I think we will have a morning hour in a few days anyway.

Mr. JONES. That is very encouraging, I am sure. Why is it that we can not have a morning hour almost every day?

Mr. OVERMAN. I think we can have soon. Does the Senator from Washington object to the consideration of the bill?

Mr. JONES. Is it a unanimous report?

Mr. OVERMAN. Yes; three-fourths of the membership of the committee agreed to it; all the members I could see.

Mr. JONES. There was no objection on the part of any member?

Mr. OVERMAN. There was no objection on the part of any member of the committee.

Mr. JONES. I do not think I shall object to the consideration of this bill; but I do not think I shall consent to such matters coming up hereafter in this way, because it seems to me it would be very easy for us to adjourn from day to day. I think we would get along just about as fast as we are doing now, and thus we would be given an opportunity to take up such matters in the morning hour. Our friends do not seem to be crowding the pending measure very rapidly anyway, and I can see no necessity for keeping one day running along for a week or two. However, I am not going to object to this bill.

Mr. OVERMAN. I would not ask for its consideration if it was not a very important matter and one that ought to be passed at once.

Mr. GALLINGER. Mr. President, I wish to emphasize what the Senator from Washington has just said. There is not going to be a very lengthy debate, apparently, on the unfinished business, and it does seem to me that we might well return to the old custom of adjourning and meeting at 11 o'clock. That gives us seven long hours.

Mr. OVERMAN. I think we will come to that pretty soon.

Mr. GALLINGER. I trust so. I wish the Senator would use his persuasive influence with the leader on the other side and let us have an adjournment.

Mr. OVERMAN. I shall be glad to take it up with him.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole. It proposes to amend section 195 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, so as to read:

> SEC. 195. That the Court of Customs Appeals established by this chapter shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided, final decisions by a board of general appraisers in all cases as to the construction of the law and the facts respecting the classification of merchandise and the rate of duty imposed thereon under such classifications, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of said board, and all appealable questions as to the laws and regulations governing the collection of the customs revenues; and the judgments and decrees of said Court of Customs Appeals shall be final in all such cases: *Provided, however*, That in any case in which the judgment or decree of the Court of Customs Appeals is made final by the provisions of this title, it shall be competent for the Supreme Court, upon the petition of either party, filed within 60 days next after the issue by the Court of Customs Appeals of its mandate upon decision, in any case in which there is drawn in question the construction of the Constitution of the United States, or any part thereof, or of any treaty made pursuant thereto, or in any other case when the Attorney General of the United States shall, before the decision of the Court of Customs Appeals is rendered, file with the court a certificate to the effect that the case is of such importance as to render expedient its review by the Supreme Court, to require, by certiorari or otherwise, such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ of error to the Supreme Court: *And provided further*, That this act shall not apply to any case involving only the construction of section 1, or any portion thereof, of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of

the United States, and for other purposes," approved August 5, 1909, nor to any case involving the construction of section 2 of an act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 654. An act to accept the cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park, and for other purposes; and

S. 5198. An act to reserve certain lands and to incorporate the same and make them a part of the Pike National Forest.

The message also announced that the House had passed the bill (S. 5197) granting public lands to the city and county of Denver, in the State of Colorado, for public-park purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 5739) to present the steam launch *Louise*, now employed in the construction of the Panama Canal, to the French Government, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 5977) to authorize Bryan Henry and Albert Henry to construct a bridge across a slough, which is a part of the Tennessee River, near Guntersville, Ala., with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 4651. An act to authorize the Secretary of the Treasury to sell certain land to the trustees of the charity fund of Star in the East Lodge, of Oldtown, Me.;

H. J. Res. 271. Joint resolution authorizing the President to appoint delegates to attend the Ninth International Congress of the World's Purity Federation, to be held in the city of San Francisco, State of California, July 18 to 24, 1915; and

H. J. Res. 246. Joint resolution to authorize the Secretary of War to grant a revocable license for the use of lands adjoining the national cemetery near Nashville, Tenn., for public-road purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice President:

H. R. 816. An act for the relief of Abraham Hoover;

H. R. 1516. An act for the relief of Thomas F. Howell;

H. R. 1528. An act for the relief of T. A. Roseberry;

H. R. 2728. An act for the relief of George P. Heard;

H. R. 3920. An act for the relief of William E. Murray;

H. R. 6420. An act for the relief of Ella M. Ewart;

H. R. 6609. An act for the relief of Arthur E. Rump;

H. R. 9829. An act authorizing the Secretary of the Interior to sell certain unused remnant lands to the Board of County Commissioners of Caddo County, Okla., for fairground and park purposes;

H. R. 10460. An act for the relief of Mary Cornick;

H. R. 10765. An act granting a patent to George M. Van Leuven for the northeast quarter of section 18, township 17 north, range 19 east, Black Hills meridian, South Dakota;

H. R. 11765. An act to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo.;

H. R. 12463. An act to authorize the withdrawal of lands on the Quinaielt Reservation, in the State of Washington, for lighthouse purposes;

H. R. 12844. An act for the relief of Spencer Roberts, a member of the Metropolitan police force of the District of Columbia;

H. R. 13415. An act to increase the limit of cost of public building at Shelbyville, Tenn.;

H. R. 13717. An act to provide for leave of absence for homestead entrymen in one or two periods;

H. R. 13965. An act to refund to the Sparrow Gravely Tobacco Co. the sum of $176.99, the same having been erroneously paid by them to the Government of the United States;

H. R. 14404. An act for the relief of E. F. Anderson;

H. R. 14405. An act for the relief of C. F. Jackson;

H. R. 14679. An act for the relief of Clarence L. George;

H. R. 14685. An act to satisfy certain claims against the Government arising under the Navy Department;

H. R. 16205. An act for the relief of Davis Smith;

H. R. 16431. An act to validate the homestead entry of William H. Miller;

H. R. 16476. An act authorizing the Secretary of the Interior to issue patent to the city of Susanville, in Lassen County, Cal., for certain lands, and for other purposes;

H. R. 17045. An act for the relief of William L. Wallis;

H. R. 18202. An act to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes;

H. J. Res. 249. Joint resolution for the appointment of George Frederick Kunz as a member of the North American Indian Memorial Commission; and

H. J. Res. 295. Joint resolution authorizing the Secretary of War to return to the State of Louisiana the original ordinance of secession adopted by said State.

COURTS IN WEST VIRGINIA.

Mr. CHILTON. Senate bill 5574 is an act fixing the place of holding courts in West Virginia. It has come from the House with amendments, and I ask unanimous consent that it may be taken up at the present time, in order that the amendments may be concurred in.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States, which were, on page 2, line 15, after "law," to insert: ": *And provided further*, That a place for holding court at Elkins shall be furnished free of cost to the United States by Randolph County until other provision is made therefor by law," and, on page 3, lines 6 and 7, after "further," to strike out all down to and including line 9 and insert: "That a place for holding court at Williamson shall be furnished free of cost to the United States by Mingo County until other provision is made therefor by law."

Mr. CHILTON. I move that the Senate concur in the House amendments.

The motion was agreed to.

HOUSE BILL AND JOINT RESOLUTIONS REFERRED.

H. R. 4651. An act to authorize the Secretary of the Treasury to sell certain land to the trustees of the charity fund of Star in the East Lodge, of Oldtown, Me., was read twice by its title and referred to the Committee on Public Lands.

H. J. Res. 271. Joint resolution authorizing the President to appoint delegates to attend the Ninth International Congress of the World's Purity Federation, to be held in the city of San Francisco, State of California, July 18 to 24, 1915, was read twice by its title and referred to the Committee on Foreign Relations.

H. J. Res. 246. Joint resolution to authorize the Secretary of War to grant a revocable license for the use of lands adjoining the national cemetery near Nashville, Tenn., for public-road purposes, was read twice by its title and referred to the Committee on Military Affairs.

PROPOSED ANTITRUST LEGISLATION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The VICE PRESIDENT. The Chair orders inserted in the RECORD a telegram from the Ohio Manufacturers' Association, protesting against the further consideration of this bill.

The matter referred to is as follows:

COLUMBUS, OHIO, *August 18, 1914.*

Hon. THOMAS R. MARSHALL,
President of the Senate, Washington, D. C.:

The Ohio Manufacturers' Association earnestly urges that action upon the pending Clayton bill be postponed until a later session of Congress, and we do this irrespective of the possible merits of the legislation contemplated by the bill. We call your attention to the facts, doubtless well known to you, that the industry and commerce of this country have been called upon within a very brief period to meet many changes in the fundamental laws and conditions governing every phase of our transactions. The currency and tariff in themselves require drastic readjustment, while the trade-commission bill recently enacted will impose upon business new and uncertain conditions difficult to meet at a time like this. To further complicate the situation, we are now faced by a world war involving commercial problems of absolutely unique character. We do not feel that we are unreasonable in beseeching your honorable body to postpone action upon a further measure, more unsettling in character, more threatening in aspect than any which have preceded it. We submit that the passage of this measure at this time would not "relieve business of uncertainty," but would greatly add to the perplexities which now beset business men. If the Clayton bill is a wise and just measure, it will unquestionably be passed by a later Congress and loyally accepted by the business men of the country. Nothing sub-

stantial will be lost by a reasonable delay, through which, in the face of the present crisis, disaster may be avoided. Representing the second largest industry in the State of Ohio, we earnestly beseech your consideration of this appeal.

By order of the executive committee of the Ohio Manufacturers' Association.

Attest:

MALCOLM JENNINGS, *Secretary.*

Mr. BORAH obtained the floor.

Mr. HUGHES. If the Senator from Idaho will allow me, I desire to read a few lines from the syllabus in the case of Loewe *v.* Lawlor (208 U. S., 275). I wish to call the attention of the Senate to it in connection with the argument which was just made by the Senator from Ohio [Mr. POMERENE]. He made the statement during the course of his argument that the courts held that the Sherman antitrust law in its application to interstate transactions of this character was broader than the common law. This is the syllabus, showing that view was fully sustained by the court:

The antitrust act of July 2, 1890, makes no distinction between classes. Organizations of farmers and laborers were not exempted from its operation, notwithstanding the efforts which the records of Congress show were made in that direction.

Mr. BORAH. I understand that section 7 is now before the Senate for consideration.

The VICE PRESIDENT. The Chair so understands.

Mr. CULBERSON. I think the last paragraph of section 6 is now before the Senate.

The VICE PRESIDENT. That was agreed to by a yea-and-nay vote.

Mr. CULBERSON. I am very glad to hear it, but I do not think it was done. It was not even read. The first paragraph of section 6, on page 6, was read and adopted. The second paragraph has not even been read, I understand.

The VICE PRESIDENT. The Secretary says it has been read. It was treated as one amendment, and both paragraphs have been adopted.

Mr. CULBERSON. If the record shows it, all right.

The VICE PRESIDENT. The next amendment of the Committee on the Judiciary will be stated.

The SECRETARY. On page 7, line 12, before the word "labor," strike out the word "fraternal"; after the word "labor," strike out the word "consumers"; in line 13, after the word "organizations," strike out the words "orders, or associations"; in line 16, after the word "organizations," strike out the words "orders, or associations"; in the same line insert the word "lawfully"; and in line 18, after the word "organizations," strike out the words "orders, or associations," so as to make the first paragraph of section 7 read:

That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations or the members thereof be held or construed to be illegal combinations or conspiracies in restrain of trade under the antitrust laws.

Mr. BORAH. Mr. President, section 7 in its entirety as reported by the committee reads as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

Mr. President, it is not only the right but, in my opinion, the duty of labor to organize. I have no doubt that union labor has not only been of great value and benefit to the members of the organizations, but, indirectly, of benefit to those who are not members of the organization. The unionization of labor has assisted in maintaining a higher and better wage, better conditions with reference to the place where the work was to be performed, and has generally improved the conditions of labor, not only, as I said, with reference to those who are immediately members of the organization, but, indirectly, all labor has been benefited thereby.

I do not think that anyone at this time controverts the proposition or would argue against not only the right but the duty of labor to organize, in view of the thorough organization of the business world, with which labor has to deal. The only wonder to me has been that so many remain outside of the unions. Laborers have a right to organize, as I understand it, under the law as it now exists. They have a right to organize for the purpose of protecting their wages and for the purpose of raising their wages. They have the right, either singly or collectively as an organization, to refuse to work and to go upon a strike unless the wage is satisfactory. They may, in my opinion, notwithstanding the Sherman law, combine to raise wages and to strike if those wages are not conceded, and to carry out their strike in all peaceful and lawful ways.

Incidentally to this, of course, is the right to take care of strikers, to furnish funds during a strike, to take care of the families of strikers, and to generally carry on, through any peaceful or lawful methods, the cause of securing better wages and better conditions. They may strike for any reason they see fit to assign or for no reason. They may strike through sympathy, or they may strike because of a substantial and direct injury to themselves.

Mr. President, I read this section 7 as in no wise changing the law as it now exists from what I contemplate and conceive the law to be. I understand, of course, that there are those who believe that without such a provision as this, labor organization per se pursuing their ordinary and legitimate purposes would be in danger. I do not think so. I think they may, in fact, do now all that they may do after this section becomes the law. I know that a different view is entertained not only by members of labor organizations, but by very noted and distinguished lawyers. An article was published in the eastern papers some time ago by a distinguished member of the bar, in which he said:

The mere combination of employees in a given industry in the form of an organization to secure better wages, followed by any overt act, such as the demand for a higher wage or the refusal to work unless the same is conceded, is in restraint of trade and in violation of existing law. * * * The controlling circumstance that the free flow of competition in the trade in human labor has been restrained by this agreement among the workmen not to sell their labor except upon terms agreed upon between them stamps the combination as a conspiracy in restraint of trade.

In my opinion no decision of the courts can be found to sustain that view. On the other hand, speaking with all due respect, I think the authorities lay down the very opposite view.

So far as those who view the law as there expressed by this attorney and by some who are members of labor organizations are concerned, I can see a perfectly good reason for the enactment of this statute. But I was not willing, Mr. President, for this section to be adopted by my vote or with my apparent approval without stating what I conceive to be the law now and what the law will be when this section is adopted. I think no one should be misled and I feel that it is entirely proper to make known what we do not do as well as what we propose to do. The only effect of it, in my judgment, will be to remove the possibility of an attack upon the organization as such, which in my judgment at this time could not be successfully made. In other words, it removes a fear, possibly well grounded, but in my judgment unfounded in the law as it now exists. This section gives these organizations a status and permits them to lawfully carry out their legitimate purposes.

Doubtless the impression prevails among workingmen of this country that, according to the decisions of the court, labor organizations of themselves, organized for the purpose of protecting their wage, when guilty of any overt act in raising the wage are within the prohibition of the Sherman law. If such were the law, no one would want it so; but that such is not the law I entertain no doubt. The only effect of this section, therefore, standing alone and as reported from the committee, is to set at rest the fear that these organizations per se may be attacked and dissolved under the Sherman law.

If I entertained the opinion held by some, I would not only be in favor of this law, for the reasons which I have stated, but I would be in favor of it for the reason that I do not believe there is any desire upon the part of the public nor anything to be gained upon the part of the public in destroying labor organizations in their legitimate function, in performing the purposes for which ordinarily we regard them as organized to perform.

But it is not true, Mr. President, that labor organizations guilty of an overt act in raising their wages or in demanding higher wages are now inhibited by the Sherman law, notwithstanding the view expressed by learned attorneys. I believe that labor has a perfect right under the law now to strike because wages are lower than labor desires wages to be, and demand a higher wage, even if it stops every wheel rolling between the Atlantic and Pacific.

Mr. HUGHES. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from New Jersey?

Mr. BORAH. Yes.

Mr. HUGHES. The Senator qualifies his statement by interjecting into it the fact that wages must be lower. I should like to know how the Senator looks at the proposition that they would have a right to stop for that reason or for any other reason, or for no reason.

Mr. BORAH. For no reason. There is no law in this country and there never has been any law established by any court that I am familiar with to the effect that a man may not quit his employer's employment for the purpose of securing a better wage, or for any other reason satisfactory to the laborer himself, whether sanitary conditions, the betterment of labor generally, or for no reason assigned whatever. You can not compel a man to work under any system that we have so long as the Constitution of the United States has the salutary provision in it that it has now.

Mr. HUGHES. Does the Senator agree with me that under his conception of what the law is laborers would have a right to simultaneously withdraw from employment in order to coerce another employer who is having difficulty with his employees?

Mr. BORAH. No; I do not go to that extent, unless it is understood that it is voluntary all along the line. If all who quit do so voluntarily, they may do so; but men who have quit can not coerce or interfere with others to make them quit.

Mr. HUGHES. Then the Senator does not think that they can simultaneously withdraw or strike for no reason; that they must have good reason.

Mr. BORAH. No; I do not say that. What I say is that labor organizations may, so far as the relationship between the employer and employee is concerned, cease to work; and if that has the effect of producing nonemployment or cessation of work upon the part of the laborers elsewhere, it is an incident to it; but a labor organization can not demand that some one who is not dissatisfied with the employment at all shall not be permitted to labor.

Mr. HUGHES. But suppose this situation—I merely want to get the Senator's view—suppose there is a strike in a certain industrial establishment and another industrial establishment is furnishing raw material to the first establishment. In the Senator's view would the laborers in the second establishment, which is engaged in furnishing raw material to the industrial establishment having difficulty, be justified in going on a strike?

Mr. BORAH. I have no doubt that if the employees of one industry and the employees of another industry agree to quit both may quit, although one of the industries is not dissatisfied; but if the employees of one industry are satisfied and the others insist and interfere with their going ahead with their employment, then a different question arises.

Mr. HUGHES. There is no question of interference at all.

Mr. BORAH. I misunderstood the Senator. It is the proposition whether or not men have a right to quit work for any reason or for no reason—yes, absolutely.

Mr. HUGHES. I want to ask the Senator's opinion of the situation set out by the Senator from Ohio [Mr. POMERENE]. That Senator says that the present law does not in any way prevent the sudden, simultaneous cessation of employment on the part of labor. The Senator suggested the case of a strike taking place on all railroads west of Chicago. That would undoubtedly greatly inconvenience the people depending upon that line of transportation for goods, and it would amount not only to a restraint of trade to all practical purposes, but to an absolute cessation of trade between certain cities. Does not the Senator think that a situation like that, with the city of Chicago absolutely shut off from San Francisco and New York by the cause of simultaneous withdrawals from employment of the railroads of their men, it would constitute under the law as it stands a restraint of trade and commerce?

Mr. BORAH. No; I do not, if the men who struck or quit work in no wise interfere with the employers in securing other labor or in no wise interfered with the operating of the trains in any other method than through themselves. I entertain no possible doubt that the employees of the railroad, the entire employment may cease to work for the railroad company at any hour they see fit.

We are not talking about instances where they are under contract to work for a certain length of time, but where the contractual relations do not appear they may cease to work for the railroad at any time they see fit. The fact that the cessation of trade occurs is an incident to the superior right of the laborer to quit work.

Mr. HUGHES. Yes; but where is that superior right set out? That is what I would like to ascertain from the Senator.

Mr. BORAH. I will reach that in a few moments, but it is set out in the Constitution of the United States, as will be disclosed by Judge Harlan's opinion.

Mr. HUGHES. Take this case: Suppose they had no organization, but they proceeded to form one, the avowed purpose of the organization being to cause a cessation of commerce between two States over a particular line, that being the only railroad line running between those States—and there are points in the United States to which there are no wagon roads, which are absolutely dependent upon railroad transportation as a means of commerce between the States. Now imagine the case of men combining and agreeing together that they would do certain acts, the necessary result of which would be a cessation of commerce, I can not for the life of me conceive why that would not be a restraint of commerce.

Mr. BORAH. The Senator has raised there a different question entirely. In that case the men come together with the intent to restrain trade, for the purpose of preventing commerce between the States. It is a combination to restrain trade which they or no one else can do or should be permitted to do; but if restraint of trade follows from the mere fact of quitting work it is an injury for which there is no damage, and for which the men quitting work are not liable.

Mr. HUGHES. But the Senator a while ago agreed with me that they would have a right to quit for any reason or for no reason.

Mr. BORAH. Exactly. But you are not presenting the case of quitting work; you are talking about a combination which is made to restrain trade.

Mr. HUGHES. They do not have to set out their reason, and they do not set out their reason; but they are responsible for the reasonable consequences that follow from their acts and it is admitted that the reasonable consequence of this act of theirs in simultaneously withdrawing from the common employment is going to be an absolute cessation of commerce between two points in two different States. For the life of me, as I said a while ago, I can not see why an agreement, a combination, or conspiracy to bring about that result would not be a restraint of commerce under the Sherman antitrust law, which speaks of restraints of trade and agreements and combinations to interfere with and restrain interstate commerce.

Mr. BORAH. Well, Mr. President, as we proceed with the matter I shall be very glad to discuss it further with the Senator. I think I had better take up some of the decisions, perhaps, and get my views more thoroughly before the Senate.

Mr. President, one of the best statements of the law that has ever been made was made by Mr. Justice Harlan in a noted case, with which Senators are all, no doubt, familiar, but it is perhaps worth while to refresh our recollection in regard to it, because, with no exception, it is coming to be the recognized law with reference to this subject in this country, and I think has been pretty generally and clearly approved by the Supreme Court of the United States. It is true that the Sherman antitrust law itself was not the specific subject under investigation or discussion by the court at the time the opinion was rendered, but the opinion was rendered after the Sherman law was passed and relates to the employees of railroad companies, which railroad companies were operating between different States, and were, therefore, engaged in interstate commerce. I quote from the case of Arthur against Oakes in Sixty-third Federal Reporter, page 317, in which Justice Harlan said:

> But the vital question remains whether a court of equity will, under any circumstances, by injunction prevent one individual from quitting the personal service of another? An affirmative answer to this question is not, we think, justified by any authority to which our attention has been called or of which we are aware. It would be an invasion of one's natural liberty to compel him to work for or to remain in the personal service of another. One who is placed under such constraint is in a condition of involuntary servitude, a condition which the supreme law of the land declares shall not exist within the United States or in any place subject to their jurisdiction. Courts of equity have sometimes sought to sustain a contract for services requiring special knowledge or peculiar skill by enjoining acts or conduct that would constitute a breach of such contract. To this class belong the cases of singers, actors, or musicians, who, after agreeing, for a valuable consideration, to give their professional service at a named place and during a specified time for the benefit of certain parties, refuse to meet their engagement and undertake to appear during the same period for the benefit of other parties at another place. (Lumley *v.* Wagner, 1 De Gex, M. & G., 604, 617; id., 5 De Gex & S. 485, 16 Jur., 871; Montagne *v.* Flockton, L. R. 16 Eq., 189.) While in such cases the singer, actor, or musician has been enjoined from appearing during the period named at a place and for parties different from those specified in his first engagement, it was never supposed that the court could by injunction compel the affirmative performance of the agreement to sing or to act or to play. In Powell Duffryn Steam-Coal Co. *v.* Taff Vale Ry. Co. (9 Ch. App., 331, 335) Lord Justice James observed that when what is required is not merely to restrain a party from doing an act of wrong, but to oblige him to do some continuous act involving labor and care, the court has never found its way to do this by injunction. In the same case Lord Justice Mellish stated the principle still more broadly—perhaps too broadly—when he said that a court can only order the doing of something which has to be done once for all, so that the court can see to its being done.
>
> The rule, we think, is without exception that equity will not compel the actual affirmative performance by an employee of merely personal services any more than it will compel an employer to retain in his personal service one who, no matter for what cause, is not acceptable to him for service of that character. The right of an employee engaged to perform personal service to quit that service rests upon the same basis as the right of his employer to discharge him from further personal service. If the quitting in the one case or the discharging in the other is in violation of the contract between the parties, the one injured by the breach has his action for damages; and a court of

equity will not, indirectly or negatively, by means of an injunction restraining the violation of the contract, compel the affirmative performance from day to day or the affirmative acceptance of merely personal services. Relief of that character has always been regarded as impracticable. (Toledo, A. A. & N. M. Ry. Co. v. Pennsylvania Co., 54 Fed., 730, 740, Taft, J., and authorities cited; Fry, Spec. Perf., 3d Am. ed., 11, 87–91, and authorities cited.)

It is supposed that these principles are inapplicable or should not be applied in the case of employees of a railroad company, which, under legislative sanction, constructs and maintains a public highway primarily for the convenience of the people and in the regular operation of which the public are vitally interested. Undoubtedly the simultaneous cessation of work by any considerable number of the employees of a railroad corporation without previous notice will have an injurious effect and for a time inconvenience the public. But these evils, great as they are, and although arising in many cases from the inconsiderate conduct of employees and employers, both equally indifferent to the general welfare, are to be met and remedied by legislation restraining alike employees and employers so far as necessary adequately to guard the rights of the public as involved in the existence, maintenance, and safe management of public highways.

In the absence of legislation to the contrary, the right of one in the service of a quasi public corporation to withdraw therefrom at such time as he sees fit, and the right of the managers of such a corporation to discharge an employee from service whenever they see fit, must be deemed so far absolute that no court of equity will compel him, against his will, to remain in such service, or actually to perform the personal acts required in such employments, or compel such managers, against their will, to keep a particular employee in their service. It was competent for the receivers in this case, subject to the approval of the court, to adopt a schedule of wages or salaries, and say to employees, "We will pay according to this schedule, and if you are not willing to accept such wages you will be discharged." It was competent for an employee to say, "I will not remain in your service under that schedule, and if it is to be enforced I will withdraw, leaving you to manage the property as best you may without my assistance." In the one case, the exercise by the receivers of their right to adopt a new schedule of wages could not, at least in the case of a general employement without limit as to time, be made to depend upon considerations of hardship and inconvenience to employees. In the other, the exercise by employees of their right to quit in consequence of a proposed reduction of wages could not be made to depend upon considerations of hardship or inconvenience to those interested in the trust property or to the public. The fact that employees of railroads may quit under circumstances that would show bad faith upon their part, or a reckless disregard of their contract or of the convenience and interests of both employer and the public, does not justify a departure from the general rule that equity will not compel the actual, affirmative performance of merely personal services, or (which is the same thing) require employees, against their will, to remain in the personal service of their employer.

Mr. HUGHES. The Senator, of course, knows as well as I do that that is altogether beside the question we were discussing. I never dreamed that anybody would even make application to a court of equity to compel a man specifically to perform a personal service. One of the first things which I was taught in law school was that a court of equity would not compel partners to remain together and would not compel a man to remain in employment. He might quit the employment, but he was responsible for the necessary consequences that followed from the fact that he violated his contract.

Now, admitting what Justice Harlan says to be the law, as it undoubtedly is, yet the fact remains that when these men did simultaneously cease work in the employment in which they were engaged they were still responsible for the reasonable consequences that flowed from that act.

Mr. BORAH. Oh, no, Mr. President. The court says that they had the constitutional right to quit, the constitutional right to be relieved from the employment for any reason that they might have. It was not alone a question of the power of injunction, but as a fundamental, elemental, constitutional right they might quit and could be neither punished under the common law or held in damages.

Mr. HUGHES. The court, as I understand, intimates that legislation might regulate in some way the rights of those men, so far as the public were concerned. It says so in that opinion, but it does not go any further than to say that the court will not issue an injunction commanding a man to stay in a certain employment.

Mr. BORAH. Does the Senator say the court does not say that?

Mr. HUGHES. The court does not go further than to say that it will not issue an injunction commanding a man to stay in a certain employment and to render a certain service. It will not do that. But the court does not say that in a criminal court or in a court of law, where damages merely were sought, they would be free from responsibility.

Mr. BORAH. Mr. President, I can not conceive of a man recovering damages from another man for doing a thing which the Constitution of the United States guarantees him the right to do. That is what the court says here, that they have under the Constitution the absolute right to quit the employment of an interstate carrier. Now, suppose after quitting it had been the purpose of someone who was injured by their quitting to recover damages. The complete defense would have been their constitutional right to quit work. Or suppose an action had been brought under the Sherman law to dissolve their unions. The complete answer would have been that under the Constitution we had the right to quit, and the fact that it interfered with commerce was subordinate and incident to the absolute and perfect right under the Constitution to cease the employment. They would have said further, in answer to the charge, We have done nothing other than that which is right and legal for us to do under the Constitution. Oh, no; this case is not to be limited to the mere power to issue an injunction to prevent their quitting.

Mr. HUGHES. But the Senator knows that a man has a constitutional right to libel another, that the court will not enjoin him from publishing the libel, and that a jury under the Constitution must pass upon whether or not the libelous matter is true or false; but still he is liable in damages.

Mr. BORAH. Well, does the Senator think that the constitutional provision with reference to the freedom of the press and a man being responsible in damages for what he says is the same proposition as that a man can not be compelled to work in penal servitude?

Mr. HUGHES. I think it is fairly parallel.

Mr. BORAH. I do not think the similarity is great.

Mr. HUGHES. In any event, the position the Senator takes—and I want to agree with him, although in supporting this legislation I can not altogether agree with him, for I believe the legislation is absolutely necessary—the position the Senator takes is that it was never intended by the antitrust legislation to interfere with laboring men at all, so far as their simultaneous cessation of work is concerned.

Mr. BORAH. I have no doubt about that.

Mr. HUGHES. I agree with the Senator that such a conception never was in the mind of the author of the act. The debates clearly show that fact.

Mr. BORAH. I have no doubt the framers of the law never intended that the cessation of work upon the part of labor unions should constitute such a restraint of trade as would render laborers liable under the Sherman law; but there are conditions under which they would be liable under the Sherman law, which we will discuss later. The cessation of work, however, is not one of those conditions.

The judge says further here:

It was equally their right, without reference to the effect upon the property or upon the operation of the road—

This comes pretty close to the question of damages, as the distinguished Senator will observe—

It was equally their right, without reference to the effect upon the property or upon the operation of the road, to confer with each other upon the subject of the proposed reduction in wages and to withdraw in a body from the service of the receivers because of the proposed change. Indeed, their right, as a body of employees affected by the proposed reduction of wages, to demand given rates of compensation as a condition of their remaining in the service, was as absolute and perfect as was the right of the receivers, representing the aggregation of persons, creditors, and stockholders interested in the trust property, and the general public, to fix the rates they were willing to pay their respective employees.

There can be no question as to the purport and the far-reaching effect of that statement. They had a perfect and complete right to quit singly or as a body, regardless of the effect upon the public or the injury which it might be to property.

Mr. HUGHES. Of course I maintain that all that decision sets out is that the court would not enjoin them to the contrary.

Mr. BORAH. I understand the Senator's position.

Mr. President, I call attention next to the case of Hopkins *v.* The United States (171 U. S., 593). This was an action under the Sherman antitrust law. The decision, of course, is not dealing with a labor organization or labor union, but it lays down the proposition that the restraint of interstate commerce must not be merely incidental to some other acts which the party has a right to perform, but must be substantial and direct before it comes within the provisions of the Sherman antitrust law, and it cites the particular kind of cases with which we are dealing as an illustration of the view of the courts. The court says:

It is not difficult to imagine agreements of the character above indicated. For example, cattle, when transported long distances by rail, require rest, food, and water. To give them these accommodations it is necessary to take them from the car and put them in pens or other places for their safe reception. Would an agreement among the landowners along the line not to lease their lands for less than a certain sum be a contract within the statute as being in restraint of interstate trade or commerce? Would it be such a contract even if the lands, or some of them, were necessary for use in furnishing the cattle with suitable accommodations? Would an agreement between the dealers in corn at some station along the line of the road not to sell it below a certain price be covered by the act because the cattle must have corn for food? Or would an agreement among the men not to perform the service of watering the cattle for less than a certain compensation come within the restriction of the statute? Suppose the railroad company which transports the cattle itself furnishes the facilities, and that its charges for transportation are enhanced because of an agreement among the land-

owners along the line not to lease their lands to the company for such purposes for less than a named sum, could it be successfully contended that the agreement of the landowners among themselves would be a violation of the act as being in restraint of interstate trade or commerce? Would an agreement between builders of cattle cars not to build them under a certain price be void because the effect might be to increase the price of transportation of cattle between the States? Would an agreement among dealers in horse blankets not to sell them for less than a certain price be open to the charge of a violation of the act, because horse blankets are necessary to put on horses to be sent long journeys by rail, and by reason of the agreement the expense of sending the horses from one State to another for a market might be thereby enhanced?

Would an agreement among cattle drivers not to drive the cattle after their arrival at the railroad depot at their place of destination to the cattle yards where sold, for less than a minimum sum, come within the statute? Would an agreement among themselves by locomotive engineers, firemen, or trainmen engaged in the service of an interstate railroad not to work for less than a certain named compensation be illegal because the cost of transporting interstate freight would be thereby enhanced? Agreements similar to these might be indefinitely suggested.

In our opinion all these queries should be answered in the negative.

I entertain no doubt, Mr. President, but that the employees, the engineers, the firemen, and the brakemen could all agree to quit work, and to quit work at any time they saw fit, leaving out for the present the discussion of a contractual relation running for a certain time, notwithstanding the fact that it might prevent the operation of the train and thereby actually stop commerce, because it is an incident to their superior right, to their perfect and complete right under the Constitution, to quit work whenever they see fit to do so. The correlative proposition would be that it would be within the power of the courts or in the power of the law to compel these men to remain in the employ of the company until such time as in the judgment of the court it might be deemed wise for them to quit. If they can not quit work, if we have the power to prevent them from ceasing labor because incidentally it stops commerce, the other proposition must be true, that there is some power under the Constitution in the laws and in the courts to compel them to continue in the employment, which would be, in my judgment, absolutely in the teeth of the Constitution of the United States, as cited by Justice Harlan.

An agreement may in a variety of ways affect interstate commerce just as State legislation may, and yet, like it, be entirely valid, because the interference produced by the agreement or by the legislation is not direct.

Mr. HUGHES. Mr. President, I do not like to be constantly interrupting the Senator if it annoys him.

Mr. BORAH. No; not at all.

Mr. HUGHES. I simply wish to call his attention to the fact that the court there is dealing with an agreement which has not been acted upon, an agreement which apparently all hands have agreed to—the railroads and their employees. The court does not go so far as to say that if, in order to get that agreement, these men had committed certain overt acts, such as ceasing at once their employment, it would be as innocent as it is without those overt acts.

Mr. BORAH. Oh, the court is not dealing with any agreement.

Mr. HUGHES. The court cited, as an example of an innocent agreement which would not be violative of the law, an agreement between locomotive firemen or engineers.

Mr. BORAH. The court is using the word "agreement" there as we use it in popular parlance. The effect of the court's decision is simply that they might have an understanding or agreement or coming together, and all quit at once as the result of that agreement.

Mr .HUGHES. No; I am addressing myself to the other part of the statement.

Mr. BORAH. The particular part to which I have reference is:

Would an agreement among themselves by locomotive engineers, firemen, or trainmen engaged in the service of an interestate railroad not to work for less than a certain named compensation be illegal?

Mr. HUGHES. That means, "Would a union for that purpose be illegal?" The court says: "No; a union for that purpose would not be illegal;" but the court does not say that a union would be innocent which might have not only that for its purpose but an intention to strike.

Mr. BORAH. I have no doubt of the proposition, which to me is an entirely different proposition, that for a union or a labor organization or laboring men to go out with the intent and for the purpose of stopping an interstate train and preventing anybody from operating such a train, thereby making it their prime object and the purpose for which they are operating and acting, would be within the Sherman law; but that is an entirely different proposition from the one I am arguing, which is that the members of a labor organization have a perfect right to stop work for any reason they want to, although the result of it is to prevent the operation of a train and to stop commerce.

Mr. HUGHES. I can not see how the Senator can reconcile those two statements. That is the way it appears to me. I do not want to be captious, but that is the way I honestly think on the subject.

We will take the case—and it is not a fanciful case, either—of a group of men who are in practically entire control of a certain branch of industry. Take the locomotive engineers: There is not any doubt in my mind that on any great railroad, if the locomotive engineers went on a strike, there would not be a sufficient number of unattached locomotive engineers outside of their organization competent and capable of filling their places, or any respectable percentage of their places; so you can easily assume a case where locomotive engineers, by going on strike, would cause an absolute cessation of commerce. Now, a while ago I asked the Senator whether those men would have a right to strike for a reason satisfactory to themselves or for no reason—for any reason or not reason at all. The Senator agreed with me then, I think.

Mr. BORAH. I agree with you now.

Mr. HUGHES. But if their purpose or reason is to cause that cessation of commerce, as the Senator said a minute ago, as I understood, they would be operating in violation of the law.

Mr. BORAH. I have no doubt at all of the proposition that the organized engineers, although they might be the only engineers who could run the trains properly, could quit work. They could assign a reason or not assign a reason, just as they pleased. If they went a step further, however, and if the road was prepared to operate and they interfered with its operation through the instrumentalities which the road might choose to employ, incompetent engineers or otherwise, they would be within the provisions of the Sherman law. In one instance—to wit, in quitting work—they are exercising a right; in the other instance, where they interfere with others from operating a train, they are not exercising a right, but doing a wrong, and the consequences which flow from doing a thing we have a right to do and the thing we have not a right to do may be physically the same, but the legal liability is different.

Mr. HUGHES. I agree with the Senator absolutely as to that. Of course I think they are within it now.

Mr. BORAH. Mr. President, of course there never has been any decision upon all fours, as we use the term sometimes at the bar, with this proposition, but I do challenge my friends who think that there has been a different rule to cite a single case which has been sustained on appeal and has become the final voice of the court, in which the Federal courts have ever interfered with the right of the members of a labor organization to quit work whether they did it singly or collectively and whether it had the effect of stopping commerce or whether it did not. I do not believe any authority can be cited to the effect that they must continue in the employment, not according to their wishes, but according to the demands or the interests or the welfare of commerce. If any such case should be cited, I would agree perfectly with those who think there is a justification for this statute.

I understand that there are well-grounded fears on the part of honest men in regard to it, and in so far as it accomplishes the things which I believe now to exist, and which ought to be accomplished, I stand with them, and do not oppose the statute for that reason.

But, Mr. President, let me call attention to another case, and that is the case of Adair against United States, in Two hundred and eighth United States, page 178:

Manifestly, any rule prescribed for the conduct of interstate commerce, in order to be within the competency of Congress under its power to regulate commerce among the States, must have some real or substantial relation to or connection with the commerce regulated. But what possible legal or logical connection is there between an employee's membership in a labor organization and the carrying on of interstate commerce? Such relation to a labor organization can not have, in itself and in the eye of the law, any bearing upon the commerce with which the employee is connected by his labor and services. Labor associations, we assume, are organized for the general purpose of improving or bettering the conditions and conserving the interests of its members as wage earners—an object entirely legitimate and to be commended rather than condemned. But surely those associations as labor organizations have nothing to do with interstate commerce as such. One who engages in the service of an interstate carrier will, it must be assumed, faithfully perform his duty, whether he be a member or not a member of a labor organization. His fitness for the position in which he labors and his diligence in the discharge of his duties can not in law or sound reason depend in any degree upon his being or not being a member of a labor organization. It can not be assumed that his fitness is assured, or his diligence increased, by such membership, or that he is less fit or less diligent because of his not being a member of such an organization.

A single paragraph, Mr. President, from the case of Gompers against The Buck's Stove & Range Co., in Two hundred and twenty-first United States, at page 439:

The law, therefore, recognizes the right of workingmen to unite and to invite others to join their ranks, thereby making available the strength, influence, and power that come from such association. By virtue of this *right*, powerful labor unions have been organized.

The case of National Protective Association against Cumming, in One hundred and seventieth New York, page 321, is a case familiar to us all, and has often been cited. Along with the opinion of Justice Harlan, it states the rights of labor unions as I conceive them to be, and as I believe the authorities will finally permanently and unmistakably establish them in this country:

It is not the duty of one man to work for another unless he has agreed to, and if he has so agreed, but for no fixed period, either may end the contract whenever he chooses. The one may work, or refuse to work, at will, and the other may hire or discharge at will. The terms of employment are subject to mutual agreement, without let or hindrance from anyone. If the terms do not suit, or the employer does not please, the right to quit is absolute, and no one may demand a reason therefor. Whatever one man may do alone he may do in combination with others, provided they have no unlawful object in view. Mere numbers do not ordinarily affect the quality of the act. Workingmen have the right to organize for the purpose of securing higher wages, shorter hours of labor, or improving their relations with their employers. They have the right to strike; that is, to cease working in a body by prearrangement until a grievance is redressed, provided the object is not to gratify malice or inflict injury upon others, but to secure better terms of employment for themselves.

Mr. HUGHES. Mr. President, if the Senator will permit me, he will notice there that the court qualifies their right to strike. That was the point I was trying to make. The court itself there qualifies their right to strike, and insists upon their having a good reason or a reason satisfactory to the court.

Mr. BORAH. Oh, no—

They have the right to strike—that is, to cease working in a body by prearrangement until a grievance is redressed—provided the object is not to gratify malice or inflict injury upon others——

Mr. HUGHES. Yes; but that qualifies it, nevertheless.

Mr. BORAH (reading):

But to secure better terms of employment for themselves.

Mr. HUGHES. You see how narrow that is.

Mr. BORAH. Of course if they are interfering with other people, that is another thing.

Mr. HUGHES. They necessarily interfere. If the Senator has had any experience with injunction cases——

Mr. BORAH. I have had some.

Mr. HUGHES (continuing). He will know that away down at the tail end of an injunction in a labor dispute there is a clause to this effect:

Nor shall these defendants in any other manner interfere with complainant's business.

The terrifying language with reference to coercion, intimidation, threats, battle, murder, and sudden death which is used to excuse the injunction, but which in very many cases is absolutely unjustified, is followed by this simple little clause:

Nor shall these defendants in any other manner interfere with the business of the complainant.

Now, to remain away from his employment in a great many trades is the most effective manner of interfering with his business.

Mr. BORAH. Does the Senator know of any instance in which a court has ever enjoined the members of a labor union from quitting work or from striking for higher wages?

Mr. HUGHES. Yes; I do. I do not remember the titles of the cases, but it seems to me that Judge Dayton——

Mr. BORAH. That case——

Mr. HUGHES. I am speaking now of some of the more remote activities of Judge Dayton, and not of this last case. There are one or two other West Virginia Federal judges who have done things of that kind. I do not say that the Supreme Court or any appellate court has ever upheld them, but back something like 15 or 20 years ago, according to my recollection, it was a common thing for receivers to make application to Federal judges to enjoin men from leaving their employment.

Mr. BORAH. Yes; but they have never done that since Justice Harlan rendered his opinion in the Oakes case. The Dayton case does not go to the extent claimed and has been overruled besides.

Mr. HUGHES. I am quite prepared to believe that to be true.

Mr. BORAH. I have never known of an instance. I have never been able to find it.

Mr. HUGHES. But the injunctions have been issued, and the very thing has been done which the Senator says constitutional rights and human rights forbid being done. That is, the attempt was made to compel men to remain in a certain employment, to give their service, to force them into involuntary servitude, and the writ of injunction was invoked for that purpose; and that was the beginning of the movement against the writ of injunction which has culminated in the proposed legislation which now appears before us.

Mr. WHITE. Mr. President, will the Senator permit me to interrupt him for a moment?

Mr. BORAH. Yes, sir.

Mr. WHITE. My recollection is, though I may be mistaken, that Judge Taft punished an employee of a railroad that was being operated by a receiver because that employee quit work.

Mr. BORAH. If the Senator will investigate, he will find that that is a mistake. Judge Taft was too able a judge to have so held.

Mr. WHITE. That is my recollection.

Mr. BORAH. I think the Senator will find that he is in error as to that proposition. That was attempted to be done in the case of Arthur against Oakes. That was not Judge Taft's opinion; it was the opinion of Judge Woods, if I remember correctly; but, anyhow, it was not Judge Taft. But that was the portion of the injunction order which Justice Harlan struck from the decree. That is the only instance I know of; but you will find that Judge Taft did not lay down that rule.

Mr. STERLING. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. BORAH. Yes.

Mr. STERLING. I think the Senator from Alabama must have the Phelan case in mind.

Mr. WHITE. I think that is the style of the case.

Mr. STERLING. Yes; that is the style of the case or proceeding. The facts were not quite as the Senator supposes. If I remember the case correctly, Phelan was punished for disobeying the decree of the court in inciting others to violence and intimidation.

Mr. WHITE. I am glad to be corrected, but that was my recollection.

Mr. BORAH. Here is the Phelan case, and this is the language of Judge Taft. I cite from Sixty-second Federal Reporter, at page 817:

Now, it may be conceded in the outset that the employees of the receiver had the right to organize into or join a labor union which should take joint action as to their terms of employment. It is of benefit to them and to the public that laborers should unite in their common interest and for lawful purposes. They have labor to sell. If they stand together they are often able, all of them, to command better prices for their labor than when dealing singly with rich employers, because the necessities of the single employee may compel him to accept any terms offered him. The accumulation of a fund for the support of those who feel that the wages offered are below market prices is one of the legitimate objects of such an organization. They have the right to appoint officers who shall advise them as to the course to be taken by them in their relations with their employer. They may unite with other unions. The officers they appoint, or any other person to whom they choose to listen, may advise them as to the proper course to be taken by them in regard to their employment, or, if they choose to repose such authority in anyone, may order them, on pain of expulsion from their union, peaceably to leave the employ of their employer because any of the terms of their *employment* are unsatisfactory. It follows, therefore (to give an illustration which will be understood), that if Phelan had come to this city when the receiver reduced the wages of his employees by 10 per cent and had urged a peaceable strike, and had succeeded in maintaining one, the loss to the business of the receiver would not be ground for recovering damages, and Phelan would not have been liable for contempt even if the strike much impeded the operation of the road under the order of the court. His action in giving the advice or issuing an order based on unsatisfactory terms of employment would have been entirely lawful. But his coming here and his advice to the Southern Railroad employees, or to the employees of other roads, to quit had nothing to do with their terms of employment. They were not dissatisfied with their service or their pay. Phelan came to Cincinnati to carry out the purpose of a combination of men, and his act in inciting the employees of all Cincinnati roads to quit service was part of that combination. If the combination was unlawful then every act in pursuance of it was unlawful, and his instigation of the strike would be an unlawful wrong done by him to every railway company in the city, for which they can recover damages and for which, so far as his acts affected the Southern Railway, he is in contempt of this court.

Mr. WHITE. The cause was quitting, not inciting other men to quit.

Mr. BORAH. If the Senator will refer to the opinion, he will find what was decided.

Mr. WHITE. I am speaking of the opinion of the court. The court would seem to base it upon that rather than inciting them to quit.

Mr. CUMMINS. It has been some time since I read the opinion, but the case, as I remember it, involved the question of a secondary boycott against the Pullman Palace Car Co. Mr. Phelan was endeavoring to induce some employees of the railroad company to refuse to haul a train that contained a Pullman palace car.

Mr. BORAH. That is correct.

Mr. CUMMINS. It was upon that ground that he was held guilty of a contempt of court. Of course the final outcome as to the railroad would be that if the railroad company insisted on carrying the Pullman car, then the employees of that railroad refused to longer remain in the service, so far as hauling that train was concerned. They did not quit service; they simply refused to assist in moving a train that had a Pullman car in it.

Mr. BORAH. The point was that the men wanted to stay in the service, but they refused to haul a particular car.

Mr. WHITE. They had the lawful right to do that, I understand, and Phelan was punished because he had incited men to do that which they had a lawful right to do.

Mr. BORAH. Phelan did not have a lawful right to do it.

Mr. WHITE. I say he was punished for inciting men to do that which they had a lawful right to do.

Mr. HUGHES. Whether Senators believe it is the law that men have or have not the right to strike for any reason or for no reason, what the Senator from Iowa calls the secondary boycott is not a boycott; it is what the labor men call a sympathetic strike.

Mr. BORAH. I did not understand the Senator from Iowa that way at all.

Mr. HUGHES. It was precisely that.

Mr. BORAH. If a body of workingmen are working, we will say, for the Union Pacific Railroad Co., and another body of workingmen are working for the Northern Pacific Railroad Co., and if the Union Pacific Railroad Co. has trouble with its employees, there is no doubt that if out of mere sympathy the Northern Pacific employees want to quit they have a perfect right to quit. But if the Northern Pacific men are willing to continue and are satisfied with their situation, and the Union Pacific men undertake to menace by threats or violence, or otherwise to interfere with them, a different case is presented.

Mr. HUGHES. Let us leave out all that fustian about threats, intimidation, and violence; no one wants to legalize acts of that kind.

Mr. BORAH. I will try to keep fustian out of my speech.

Mr. HUGHES. I hope we will at least be able to keep it out of our colloquy so that we can get this matter cleared up. I am in sympathy with the Senator, but his position does not seem to me to be entirely clear.

I want to put this case to the Senator: The Pullman Co. has trouble with their men. They go on a strike. The strike is being carried on. There is no suggestion of violence or menace or coercion or anything of that sort so far as the Pullman employees are concerned, but they go to the employees of the railroad company which hauls certain Pullman cars and they pursuade the employees of the railroad company to a certain course of action; and as a result of what they say to them, as a result of the persuasion of the employees of the Pullman Co., the employees of the railroad company say to their employers and threaten them that they will quit, and commerce will be paralyzed unless the company refrains from hauling Pullman cars. Then, if the railroad company continues to haul the Pullman cars and its men quit, that would be a sympathetic strike; but the Senator from Iowa [Mr. CUMMINS] calls it a "secondary boycott." I should like to know whether the Senator from Idaho thinks the employees of that railroad company had a right to do that—to go to these men under those circumstances and induce them to quit unless their employers agreed that they would not haul a Pullman car; and would the latter have the right to quit?

Mr. BORAH. I have no doubt about it. I have no doubt that the one class of laborers or one organization may meet with another organization and discuss with them and say to them, "We do not think it is to the interest of labor that you should continue in their work." I have no doubt in the world that they may do that and they could not be restrained. I do not know of any instances where that kind of persuasion separated entirely from menace or threat or violence has ever been restrained.

Mr. HUGHES. I am not speaking about persuasion. I am speaking of the effect on the railroad employees because the railroad employees go to the president of the railroad and say certain things, which result in a threat on their part to quit, to tie up interstate commerce, although they say, "Our conditions are satisfactory; our wages are satisfactory; we are perfectly satisfied with everything surrounding us, but our brother employees are engaged in a death grapple with the Pullman Co., and you are helping the Pullman Co. to succeed by hauling their cars. If you continue to haul their cars, we will not permit you to haul your trains so far as we can prevent it."

Mr. BORAH. I have no doubt they have a right to do that. I am assuming now that the men who are quitting are doing so purely through sympathy, not by reason of threats or menaces or against their own desires.

Mr. HUGHES. That is what the Senator from Iowa called a secondary boycott.

Mr. CUMMINS. I did call it a secondary boycott. It is in every sense such a boycott, although it may have been also a sympathetic strike.

But the real difficulty in the Phelan case was not that the employees of these railroads asserted the right to strike because they were hauling Pullman cars. They asserted the right to remain in the employ of the railroad company, but declined to handle any train that had in it any Pullman car.

Mr. HUGHES. And if they were compelled to handle them they would quit.

Mr. CUMMINS. I am not asserting any sympathy with or my concurrence in the reasoning in the Phelan case. I may be wrong about some of the facts, because I have not read it for many years, but the strikers were trying to secure redress against the Pullman Palace Car Co., and the railroad companies which were made the victims of the boycott were innocent of any offense against the strikers. It is a little difficult always to draw the line, but what I term a secondary boycott is where strikers attempt to injure an innocent man in order to work out their plan. It is exactly like the ordinary case where wage-workers go to a merchant who is dealing with the employer with whom the strikers have their dispute. They say to him: "If you do not cease to deal or have relations with the unfair employer, then we will cease to deal with you, not only with regard to the goods that may be purchased by you of the unfair employer, but as to all goods in which you deal, without regard to the source from which you get them. I think there is a striking similarity between the case of refusing to haul a train in which there was a car of an offending employer and the case of concerting and combining to withdraw patronage from a merchant who was entirely innocent of the transaction, but who may have some dealings with the unfair employer. That is the reason I call it a secondary boycott. As I remember, it is so termed in one of the opinions that involved the transaction.

Mr. HUGHES. If the Senator from Idaho will permit me further to trespass upon his patience, I want to say that I thoroughly agree with the Senator from Iowa as to what constitutes a sympathetic strike. When you come to legislate against a secondary boycott you must legislate against a sympathetic strike, and that is the reason why I want to clear it up if I can. Men, in my opinion, have a right to strike; they have a right to institute a sympathetic strike; an unreasonable strike; or a strike for any reason or for no reason.

Mr. BORAH. I agree with the Senator that they have the right. I disagree with him in the view of the fact that he seems to think the authority they have——

Mr. HUGHES. The Senator from Iowa seems to think they have not the right.

Mr. CUMMINS. I have no doubt of their right to strike.

Mr. HUGHES. But the Senator referred to a secondary boycott.

Mr. CUMMINS. The Senator will remember I said I did not express any sympathy or concurrence with the reasoning of the opinion.

Mr. HUGHES. I understand that. I am asking the Senator about the law. I am not trying to find out what he thinks the law ought to be.

Mr. CUMMINS. I have no doubt the law is as stated by the Senator from Idaho, that the employees have a right to strike for a good cause, or a bad cause, or for no cause at all. It is a right superior to any inconvenience that it may occasion either the employer or the public. It is a right which I think is inherent in man.

Mr. HUGHES. The Senator, then, thinks that the railroad employees in the Pullman case had a right to refuse to haul the cars if the trains carried Pullman cars.

Mr. CUMMINS. I think the employees of those railroads had a right to strike for any reason, but it does not follow that the acts of Phelan were justifiable under the law.

Mr. STERLING. Mr. President, if the Senator from Idaho will yield to me for just a moment, whether that be the basis of Judge Taft's decision or not, I thought I could not be mistaken in regard to some of the facts in the Phelan case, namely, those relating to violence and intimidation and his activities in inciting men thereto. I have the case before me. The court says:

> We come now to consider the question of fact, whether Phelan in any of his speeches advised intimidation, threats, or violence in carrying out the boycott.

The court calls it a boycott, not a secondary boycott.

Mr. CUMMINS. I remember there was a boycott, and in the very nature of things I thought it was a secondary boycott.

Mr. STERLING (reading):

He is charged with having said, on Thursday night, June 28, at the meeting at West End Turner Hall, that the strike was then declared on; that it was the duty of every A. R. U. man to quit work, to induce and coax other men to go out, and if this was not successful to take a club and knock them out.

And much more to the same effect. If the Senator from Idaho will excuse me a moment further, I will read briefly from the court's opinion, and then Senators may judge upon what ground the court bases the decision made.

But the combination was unlawful without respect to the contract feature. It was a boycott. The employees of the railway companies had no grievance against their employers. Handling and hauling Pullman cars did not render their services any more burdensome. They had no complaints against the use of Pullman cars as cars. They came into no natural relation with Pullman in handling the cars. He paid them no wages. He did not regulate their hours, or in any way determine their services. Simply to injure him in his business, they were incited and encouraged to compel the railway companies to withdraw custom from him by threats of quitting their service, and actually quitting their service. This inflicted an injury on the companies that was very great, and it was unlawful, because it was without lawful excuse. All the employees had the right to quit their employment, but they had no right to combine to quit in order thereby to compel their employer to withdraw from a mutually profitable relation with a third person for the purpose of injuring that third person, when the relation thus sought to be broken had no effect whatever on the character or reward of their service.

Mr. BORAH. Mr. President, coming back to the point from which I was diverted, I was reading from the case of the National Protective Association against Cumming, which opinion was written by Chief Justice Parker:

A peaceable and orderly strike, not to harm others, but to improve their own condition, is not in violation of law.

* * * * * * *

The same rule applies to a body of men who, having organized for purposes deemed beneficial to themselves, refuse to work. Their reasons may seem inadequate to others, but if it seems to be in their interest as members of an organization to refuse longer to work, it is their legal right to stop. The reason may no more be demanded as a right of the organization than of an individual, but if they elect to state the reason their right to stop work is not cut off because the reason seems inadequate or selfish to the employer or to organized society. And if the conduct of the members of an organization is legal in itself, it does not become illegal because the organization directs one of its members to state the reason for its conduct.

The principles quoted above recognize the legal right of members of an organization to strike—that is, to cease working in a body by prearrangement until a grievance is redressed—and they enumerate some things that may be treated as the subject of a grievance, namely, the desire to obtain higher wages, shorter hours of labor, or improved relations with their employers, but this enumeration does not, I take it, purport to cover all the grounds which will lawfully justify members of an organization refusing, in a body and by prearrangement, to work. The enumeration is illustrative rather than comprehensive, for the object of such an organization is to benefit all its members and it is their right to strike, if need be, in order to secure any lawful benefit to the several members of the organization as, for instance, to secure the reemployment of a member they regard as having been improperly discharged, and to secure from an employer of a number of them employment for other members of their organization who may be out of employment, although the effect will be to cause the discharge of other employees who are not members.

And whenever the courts can see that a refusal of members of an organization to work with nonmembers may be in the interest of the several members, it will not assume, in the absence of a finding to the contrary, that the object of such refusal was solely to gratify malice and to inflict injury upon such nonmembers.

I now read a paragraph from the New Jersey Equity Reports, volume 63, page 759. It states the principle in a very clear and concise but comprehensive way:

From an examination of the cases and a very careful consideration of the subject I am unable to discover any right in the courts, as the law now stands, to interfere with this absolute freedom on the part of the employer to employ whom he will, and to cease to employ whom he will; and the corresponding freedom on the part of the workman, for any reason or no reason, to say that he will no longer be employed; and the further right of the workmen, of their own free will, to combine and meet as one party, as a unit, the employer, who, on the other side of the transaction, appears as a unit before them. * * * Union workmen who inform their employer that they will strike if he refuses to discharge all nonunion workmen in his employ are acting within their absolute right, and, in fact, are merely dictating the terms upon which they will be employed.

Now, Mr. President, I might cite many other decisions to the same effect, but these suffice. Whatever divergence may be found, if any, from principles here announced, these cases disclose the unmistakable trend of opinion and the law as it is and as it is to be. These decisions show the true attitude of the courts toward labor. In brief, what do these authorities hold? They hold the right of laborers singly or collectively, for good reason or no reason, to quit work, and that this right is absolute and guaranteed and protected by the Constitution. That the fact that the employees quitting work are in the employ of an interstate carrier and that interstate commerce is thereby interfered with does not change the rule or modify the right. That the fact that interstate commerce must suffer, and the public be inconvenienced, must all yield to the superior and protected right of the laborer to be free to do as he will with his labor. In other words, they clearly recognize the distinction between a commodity and labor. No combination would have a right to combine and to withhold the products of commerce through an intention of enforcing higher prices. It is further clearly held that the reasons for quitting work are reasons to be assigned by labor itself. The reasons may seem to be to the public wholly insufficient, but neither the public nor the courts can judge of the sufficiency of the reasons so long as the laborer in quitting acts upon his own volition, according to his own wishes, and not by reason of menace or fear of violence. It further appears clearly from these authorities that the courts have recognized that the combinations of laboring men to secure wages and refusal to work, though interfering with interstate commerce in a most pronounced way, are not within the provisions of the Sherman antitrust law; that the interference of interstate commerce is incidental, indirect, and subordinate to the positive and constitutional right of the laborer to work or not to work as he chooses. Moreover, it clearly appears from these authorities that the courts have universally commended and encouraged laborers to organize. It seems to me that these cases clearly establish these principles. In other words labor organizations may exist now and may demand higher wages and may refuse to work unless they get the wages, and that by so doing are not subject to the Sherman antitrust law. They may carry out all the legitimate objects of labor unions in a lawful way. If any decisions can be found to the contrary they were most erroneously decided. I have seen no such decisions and none are here presented.

Mr. BRYAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Florida?

Mr. BORAH. I yield.

Mr. BRYAN. I ask the Senator from Idaho if it would be agreeable to him to continue his remarks to-morrow. If so, I would prefer a request for a meeting to-night, at the suggestion of several Senators. If agreeable to the Senator, I will prefer it now.

Mr. BORAH. Does the Senator desire to move an adjournment?

Mr. BRYAN. I was going to ask unanimous consent to hold a session to-night.

Mr. BORAH. Mr. President, I shall close my remarks in 20 minutes.

Mr. BRYAN. I hope the Senator will understand that I did not mean to take him off the floor or to suggest that he curtail his remarks.

Mr. BORAH. I shall close my remarks in a very few minutes.

Mr. President, I have taken this much time of the Senate apparently without any justification, for I am not going to oppose this section; but I was not willing to support the section with the construction which has been placed upon it by some others who have discussed it, both in this Chamber and elsewhere.

Mr. President, I secured my intimate acquaintance with labor organizations in a manner which was not calculated to unduly prejudice me in their behalf. There were conditions which brought me in touch with labor organizations which I do not propose to discuss here, but which were certainly not calculated to lead me into a fulsome eulogy or bias me unduly in favor of such organizations. But even in these same controversies I learned to sympathize thoroughly with the rights of labor organizations and became thoroughly convinced that it was impossible for labor to deal with the great organized business interests of the world without thorough organizations of their own. My sympathies were thoroughly aroused in favor of a just, proper, and lawfully conducted organization, and I have never changed my view upon that question. I saw very clearly how it was absolutely impossible for laborers to protect their wage, to protect their conditions of employment, and to secure for themselves their fair proportion of the world's pleasures and comforts without thorough organization.

I am in favor of any measure which is deemed essential to protect and shield fully labor unions as such from the condemnation of the Sherman antitrust law or any other law. I do not believe that unions are now condemned by that law or in anywise prohibited. I do not believe that any well-considered decision of the court can be found to that effect. But if there is fear that such decision may be had, or if there is belief that any court has assumed to go thus far and to say that the organization of labor unions is of itself a restraint of trade, then this legislation is justified to that extent and I cordially support it to that extent. The time has long since passed when any right-thinking man would do other than encourage labor unions in all legitimate and lawful acts. They are essential

to enable labor to protect the laborer in his wage and to help the well-being of his family. It seems to me incredible that any court would say such unions were in violation of the antitrust law. It would be a distinct and notorious perversion of the law.

These unions are no more in violation of the law than a corporation or association of business men are in themselves a violation of the law. Whether they come under the condemnation of the law depends not upon the fact as to the union, but entirely upon what as unions they do. They may combine, they may do all those things which look to the betterment and the welfare of the members, they may determine upon a wage, they may demand an increase of wage, and they may quit work singly or collectively in order to enforce their demands. All these and similar acts are not in violation of law and should not be, for they are essentially right and proper. They are within the legitimate scope and design and purpose of labor unions. But, Mr. President, we are asked by some to declare that the labor unions may go further and affirmatively and effectively and with design interfere with or restrain interstate commerce; that while we condemn all other interests and punish if they restrain trade or monopolize interstate commerce, we will except labor unions. This, Mr. President, I can not do. I could not support such a measure as a citizen or a Senator, and if I were a laboring man I am convinced I would not ask it. I do not believe that as a body labor does ask it.

Why did we pass the law of 1890; why do we keep it on the statute books? Because we thought then and think now that to restrain or embarrass interstate commerce wrongs and injures the whole people; that it works evil to the entire body politic. We thought then and we think now that to restrain or monopolize interstate trade would injure labor, and that in the end labor would suffer with all the rest of us. Now, the injury which would flow to the public from stopping commerce would be just the same regardless of who stopped it. If divine interposition through a war of the elements should stop interstate commerce, the great loss to the whole country would be just the same as if it were interfered with by some great monopoly. Labor can not thrive and the laboring man can not find work unless commerce moves, and I have no fear that labor will not see that this is true upon reflection. There are people in this country—and I am one of them—who believe very earnestly in the principle of the Sherman antitrust law. They believe that it is vital to our national welfare. So believing I could not for a moment weaken it and in the end destroy it by relieving a portion of our people from its operation while insisting upon its drastic enforcement as to others. That is not the kind of a government we built.

Neither do I believe the farmers of this country are asking to be relieved from the operation of any law deemed to be of general benefit to the people of the country. It is not like the farmer to ask any such exceptions in his favor. He knows this law of 1890 declared for a great, essential, and indispensable principle of trade and commerce, to wit, the free flow of commerce through the channels of interstate trade. He knows it declared that such commerce should be forever and at all times unembarrassed, unvexed by the restraint of monopoly. He knows there is no rule of more concern to the people as a whole, from a business and economic standpoint, than the rule declared by the statute of 1890, known as the Sherman antitrust law. He knows when our commerce is embarrassed, hindered, or restrained through combinations by reason of unnatural causes or through monopolies, when it is disturbed in any improper and illegal way, industrial stagnation, business distress, lower prices, lower wages, lockouts, and general unrest must inevitably follow.

The farmers, in my judgment, are willing and anxious to abide by this law. They are desirous of seeing it enforced fully and completely. Nothing could serve them more advantageously than the thorough enforcement of this law. What they are asking is that it be enforced alike as to all and that there be no exceptions, either by law or other political favoritism. If there is anyone in the country that is opposed to all forms of monopoly, it is the farmer. If there is anyone in favor of equality before the law, it is the farmer, and he will be the last man, in my judgment, to ask any exception or special privilege.

No, Mr. President; give the agricultural interests equality, an equal chance with other industries, and they will thrive and be content. Give the farmer an equal chance under the tariff laws with the manufacturer. Give him a system of rural credits by which he can utilize his credits and secure his loans for a reasonable rate of interest. Help him to build and construct good roads and be assured he will ask no favor of that kind; he will neither need it nor want it. Do not insult his intelligence or impeach his good citizenship and his patriotism by offering him some little special privilege or favor which will not greatly benefit him if at all and will greatly injure the country. Do not hope to secure his approval by withholding great and essential things which he should have and giving him the unfair and unessential things which he ought not to have and does not want.

Mr. President, I represent in part upon this floor a constituency made up very largely of farmers and laboring men. They constitute not only the great voting strength of the State, but in a large measure its wealth and moral force. We have but few manufacturing establishments and but few of those combinations such as it is said ought to come particularly and alone within the inhibition of this trust law. If a measure were proposed here which would have the effect of relieving the farmer and the laborer wholly from the operation of the Sherman antitrust law and I should vote for the same because they constitute largely my constituency, I would feel myself forever estopped from inveighing against the constituency of my colleagues engaged, as they are, in a different kind of business. Yes; I would feel myself a shuffling coward and wholly unworthy of my constituency.

If there is anybody in this world that ought to stand firm and unbroken for the enforcement of all laws which restrain trade and foster monopoly, it is the farmer and the laborer. If there is any power which seems to rise above the law and above apparently any ingenuity which the law can invoke to control the price of farm products and to oppress labor, to enforce child employment, and curtail and curb prices, it is these vast monopolies, which the Sherman law is designed to destroy and which it will destroy if we ever find men with courage enough to enforce it. So far as I am concerned, I do not propose at any time to do anything which in my judgment will weaken either legally or morally our capacity to destroy monopolies in this country. We may all have to make some sacrifices, but whatever sacrifices are necessary to be made should be made without hesitation to accomplish this great end. If we begin to tear down the Sherman law in one instance to relieve its operations in certain directions, it will not be long until it will be torn down in another instance and until the principle will be wholly emasculated, the Sherman law finally repealed or made a dead letter, and the great monopolies of this country will reign supreme over the farmer and the laborer, the consumer, and all who are not within the circle of their favors. When we come to the conclusion that monopoly in this country is a good thing, let us repeal the law as a whole and venture, if we dare, upon that era of industrial autocracy. If we do not believe in such an era, let us stand firm and make whatever sacrifices necessary to its absolute destruction.

The VICE PRESIDENT. The question is on the amendment.

Mr. CUMMINS. What is the amendment, Mr. President?

The VICE PRESIDENT. To strike out the word "fraternal" in line 12. The question is on agreeing to the amendment. [Putting the question.] The ayes have it.

Mr. REED. Mr. President, I was trying to get the attention of the Chair; and I suppose the matter is still open to debate, is it not?

The VICE PRESIDENT. Yes; if there is any objection to the word "fraternal" going out.

Mr. REED. If that is the only change proposed, I do not desire to discuss it.

The VICE PRESIDENT. That is the only word proposed to be stricken out. The amendment is agreed to. The next amendment reported by the committee will be stated.

The SECRETARY. In section 7, page 7, line 12, after the word "labor," it is proposed to strike out the word "consumers," so as to read:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations.

Mr. JONES. Mr. President, I understand the Senator from Florida [Mr. BRYAN] is going to prefer a request, and if that is his intention, I hope he will do so before we proceed with this section.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the joint resolution (S. J. Res. 178) granting authority to the American Red Cross to charter a ship or ships of foreign register for the transportation of nurses and supplies and for all uses in connection with the work of that society.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 1657) providing for second homestead and desert-land entries, asks a conference

with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH managers at the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H. R. 1698) to amend an act entitled "An act to provide for an enlarged homestead and acts amendatory thereof and supplemental thereto," asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH managers at the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 6282) to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KITCHIN, Mr. HULL, and Mr. MOORE managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. PERKINS presented memorials of sundry citizens of San Francisco, Cal., remonstrating against the passage of the Clayton antitrust bill, which were ordered to lie on the table.

He also presented a petition of the Grace Methodist Episcopal Sunday School, of San Francisco, Cal., praying for the enactment of legislation to provide Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a petition of the Merchants' Exchange of Oakland, Cal., praying for the passage of the river and harbor appropriation bill, which was ordered to lie on the table.

Mr. BURTON presented petitions of sundry citizens of Youngstown, Massillon, and Alliance, all in the State of Ohio, praying for the passage of the so-called Clayton antitrust bill, which were ordered to lie on the table.

He also presented a petition of the Employers' Association of Dayton, Ohio, and a petition of the Business Men's Club of Cincinnati, Ohio, praying for the postponement of all antitrust legislation, which were ordered to lie on the table.

Mr. NELSON presented a memorial of the Allied Printing Trades Council of Duluth, Minn., remonstrating against the Government letting a contract for the printing of corner cards on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LEWIS:

A bill (S. 6314) granting a pension to Edward Louden; to the Committee on Pensions.

By Mr. REED:

A bill (S. 6315) to authorize the Great Western Land Co., of Missouri, to construct a bridge across Black River; to the Committee on Commerce.

By Mr. OWEN:

A bill (S. 6316) granting a pension to Harry Friedman (with accompanying papers); and

A bill (S. 6317) granting a pension to Martin L. Williams; to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 6318) to amend section 2324 of the Revised Statutes of the United States, relating to mining claims; to the Committee on Mines and Mining.

By Mr. CHILTON:

A bill (S. 6319) for the relief of J. M. Mason (with accompanying papers);

A bill (S. 6320) for the relief of Isabelle Johnson;

A bill (S. 6321) for the relief of Lycurges Campbell;

A bill (S. 6322) for the relief of J. M. Johnson;

A bill (S. 6323) for the relief of the heirs of Joseph Haynes; and

A bill (S. 6324) for the relief of the heirs of Benjamin Grayson; to the Committee on Claims.

A bill (S. 6325) for the relief of Payton J. Boggs; to the Committee on Military Affairs.

A bill (S. 6326) granting a pension to David R. Gardner;

A bill (S. 6327) granting an increase of pension to Andrew J. Jones;

A bill (S. 6328) granting a pension to Edmund P. Matheny;

A bill (S. 6329) granting a pension to Paschal T. Morton;

A bill (S. 6330) granting an increase of pension to Milton Laird;

A bill (S. 6331) granting a pension to William Reedy;

A bill (S. 6332) granting a pension to James S. Holmes;

A bill (S. 6333) granting a pension to Sarah L. Holley;

A bill (S. 6334) granting a pension to Ollie McFee (with accaccompanying papers);

A bill (S. 6335) granting a pension to John F. Grayum (with accompanying papers);

A bill (S. 6336) granting an increase of pension to Joseph L. Hayes (with accompanying papers); and

A bill (S. 6337) granting an increase of pension to Sarah E. Squires; to the Committee on Pensions.

By Mr. COLT:

A bill (S. 6338) granting an increase of pension to Sarah E. Stoddard (with accompanying papers); to the Committee on Pensions.

SECOND HOMESTEAD AND DESERT-LAND ENTRIES.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 1657) providing for second homestead and desert-land entries and requesting a conference on the disagreeing votes of the two Houses thereon.

Mr. SMOOT. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. MYERS, Mr. THOMAS, and Mr. SMOOT conferees on the part of the Senate.

ENLARGED HOMESTEAD.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 1698) to amend an act entitled "An act to provide for an enlarged homestead," and acts amendatory thereof and supplemental thereto, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PITTMAN. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. MYERS, Mr. PITTMAN, and Mr. SMOOT conferees on the part of the Senate.

RECESS.

Mr. BRYAN. I ask unanimous consent that the Senate take a recess until 8 o'clock to-night for the purpose of considering Calendar No. 298, being House bill 8846, and, if there be sufficient time following that measure, to consider Order of Business 594, being Senate bill 6120.

Mr. MARTINE of New Jersey. I object.

Mr. BRYAN. Then I move that the Senate take a recess until 8 o'clock to-night.

The VICE PRESIDENT. The question is on the motion of the Senator from Florida. [Putting the question.] The ayes seem to have it.

Mr. KENYON. I ask for the yeas and nays.

Mr. MARTINE of New Jersey. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL], who is not present. I understand that, according to the terms of the pair, on this kind of a motion I may vote. I vote "yea."

Mr. CULBERSON (when his name was called). Announcing my pair and its transfer, as I have heretofore done to-day, I vote "yea."

Mr. GALLINGER (when his name was called). I have a pair with the junior Senator from New York [Mr. O'GORMAN] and therefore withhold my vote.

Mr. GORE (when his name was called). I again announce my pair with the junior Senator from Wisconsin [Mr. STEPHENSON] and withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON] and therefore withhold my vote.

Mr. THORNTON (when Mr. O'GORMAN's name was called). I am requested to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN].

Mr. SHAFROTH (when the name of Mr. THOMAS was called). I desire to announce the absence of my colleague [Mr. THOMAS] on account of sickness.

The roll call was concluded.

Mr. BRANDEGEE (after having voted in the negative). I am paired with the Senator from Tennessee [Mr. SHIELDS]. I will inquire whether that Senator has voted?

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. BRANDEGEE. I withdraw my vote under those circumstances.

Mr. GORE. I transfer my pair with the junior Senator from Wisconsin [Mr. STEPHENSON] to the junior Senator from Georgia [Mr. WEST] and vote "yea."

Mr. LEA of Tennessee. I transfer my pair with the senior Senator from South Dakota [Mr. CRAWFORD] to the senior Senator from Nevada [Mr. NEWLANDS] and vote "yea."

Mr. PITTMAN. I wish to announce the absence of the junior Senator from Delaware [Mr. SAULSBURY] on account of sickness.

Mr. WILLIAMS. Announcing my pair with the senior Senator from Pennsylvania [Mr. PENROSE], I transfer that pair to the junior Senator from Kansas [Mr. THOMPSON] and vote "yea."

Mr. SMITH of Georgia. I transfer my pair with the senior Senator from Massachusetts [Mr. LODGE] to the senior Senator from Illinois [Mr. LEWIS] and vote "yea."

Mr. MARTINE of New Jersey. I am requested to announce the absence of the Senator from Oregon [Mr. CHAMBERLAIN] on official business, and to state that he is paired with the Senator from Pennsylvania [Mr. OLIVER].

Mr. WILLIAMS (after having voted in the affirmative). A moment ago I transferred my pair to the Senator from Kansas [Mr. THOMPSON]. I understand that since then he has come into the Chamber and voted. I therefore withdraw my previous announcement. I have, however, an agreement whereby I am permitted to vote in case it is necessary to make a quorum, and if it should turn out that there is no quorum I shall ask that my vote stand.

The result was—yeas 36, nays 12, as follows:

YEAS—36.

Bankhead	Hollis	Perkins	Stone
Brady	Hughes	Pittman	Swanson
Bryan	James	Reed	Thompson
Camden	Jones	Shafroth	Thornton
Chilton	Kern	Sheppard	Tillman
Clapp	Lea, Tenn.	Shively	Vardaman
Culberson	Lee, Md.	Simmons	Walsh
Gore	Martin, Va.	Smith, Ga.	White
Hitchcock	Overman	Smoot	Williams

NAYS—12.

Bristow	Cummins	Martine, N. J.	Pomerene
Burleigh	Kenyon	Norris	Sterling
Clark, Wyo.	Lippitt	Poindexter	Weeks

NOT VOTING—48.

Ashurst	Fletcher	Nelson	Shields
Borah	Gallinger	Newlands	Smith, Ariz.
Brandegee	Goff	O'Gorman	Smith, Md.
Burton	Gronna	Oliver	Smith, Mich.
Catron	Johnson	Owen	Smith, S. C.
Chamberlain	La Follette	Page	Stephenson
Clarke, Ark.	Lane	Penrose	Sutherland
Colt	Lewis	Ransdell	Thomas
Crawford	Lodge	Robinson	Townsend
Dillingham	McCumber	Root	Warren
du Pont	McLean	Saulsbury	West
Fall	Myers	Sherman	Works

The VICE PRESIDENT. On the motion to take a recess until 8 o'clock p. m., the yeas are 36, the nays are 12. Senators GALLINGER, GRONNA, and BRANDEGEE being in the Chamber and not voting but constituting a quorum with those who have voted, the Chair declares the Senate in recess until 8 o'clock p. m.

Mr. GALLINGER. Mr. President, for myself I want to dissent from the right of the Chair to count me to make a quorum.

The Senate thereupon (at 5 o'clock and 40 minutes p. m.) took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m.

Mr. OVERMAN. I ask unanimous consent that the unfinished business, House bill 15657, be temporarily laid aside.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. BRYAN. I ask unanimous consent that the Senate proceed to the consideration of Senate bill 6120.

Mr. SMOOT. Before the Senator from Florida makes that request I think we ought to have a quorum. There are very few Senators here. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Perkins	Thompson
Bryan	James	Reed	Vardaman
Camden	Jones	Shafroth	West
Chilton	Kenyon	Sheppard	Williams
Clapp	Lea, Tenn.	Smoot	
Gallinger	Martin, Va.	Stone	
Gore	Overman	Swanson	

Mr. SHAFROTH. I desire to announce the absence of my colleague [Mr. THOMAS] on account of illness.

The VICE PRESIDENT. Twenty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. THORNTON answered to his name when called.

Mr. THORNTON. I was requested to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN].

The VICE PRESIDENT. Twenty-six Senators have answered to the roll call. There is not a quorum present.

Mr. BRYAN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The VICE PRESIDENT. The Chair has a recollection that there is a standing order directing the Sergeant at Arms to request the attendance of absent Senators, which has been standing for a month and has never been vacated. The Sergeant at Arms will carry out the instruction of the Senate.

Mr. PITTMAN, Mr. BANKHEAD, Mr. LEE of Maryland, and Mr. HUGHES entered the Chamber and answered to their names.

After some delay,

Mr. MARTINE of New Jersey, Mr. FLETCHER, Mr. WHITE, Mr. RANSDELL, Mr. LEWIS, Mr. SMITH of Georgia, Mr. BRADY, Mr. KERN, and Mr. WALSH entered the Chamber and answered to their names.

After a further delay,

Mr. OVERMAN. I move that the Senate adjourn.

The motion was agreed to; and (at 8 o'clock and 45 minutes p. m., Tuesday, August 18, 1914) the Senate adjourned until to-morrow, Wednesday, August 19, 1914, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *August 18, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord our God and our salvation, in whom there is no shadow of turning, make us true to ourselves and unite us as a people in the bonds of patriotism and the principles of religious truth; keep us free from entangling alliances, that we may enjoy the peaceful pursuits of life, that our "virtue may be the courage of faith, our cheerfulness the patience of hope, and our life the example of charity," after the manner of the Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles, when the Speaker signed the same:

H. R. 13415. An act to increase the limit of cost of public building at Shelbyville, Tenn.;

H. R. 2728. An act for the relief of George P. Heard;

H. R. 6420. An act for the relief of Ella M. Ewart;

H. R. 3920. An act for the relief of William E. Murray;

H. R. 14679. An act for the relief of Clarence L. George;

H. R. 13965. An act to refund to the Sparrow Gravely Tobacco Co. the sum of $176.99, the same having been erroneously paid by them to the Government of the United States;

H. R. 13717. An act to provide for leave of absence for homestead entrymen in one or two periods;

H. R. 12844. An act for the relief of Spencer Roberts, a member of the Metropolitan police force of the District of Columbia;

H. R. 10765. An act granting a patent to George M. Van Leuven for the northeast quarter of section 18, township 17 north, range 19 east, Black Hills meridian, South Dakota;

H. R. 17045. An act for the relief of William L. Wallis;

H. R. 1528. An act for the relief of T. A. Roseberry;

H. R. 1516. An act for the relief of Thomas F. Howell;

H. R. 11765. An act to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo.;

H. R. 816. An act for the relief of Abraham Hoover;

H. R. 6609. An act for the relief of Arthur E. Rump;

H. R. 12463. An act to authorize the withdrawal of lands on the Quinaielt Reservation, in the State of Washington, for lighthouse purposes;

H. R. 16476. An act authorizing the Secretary of the Interior to issue patent to the city of Susanville, in Lassen County, Cal., for certain lands, and for other purposes;

H. R. 14405. An act for the relief of C. F. Jackson;
H. R. 14404. An act for the relief of E. F. Anderson;
H. R. 16205. An act for the relief of Davis Smith;
H. R. 10460. An act for the relief of Mary Cornick;
H. R. 9829. An act authorizing the Secretary of the Interior to sell certain unused remnant lands to the board of county commissioners of Caddo County, Okla., for fairground and park purposes;
H. R. 16431. An act to validate the homestead entry of William H. Miller;
H. R. 18202. An act to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes;
H. J. Res. 249. Joint resolution for the appointment of George Frederick Kunz as a member of the North American Indian Memorial Commission; and
H. J. Res. 295. Joint resolution authorizing the Secretary of War to return to the State of Louisiana the original ordinance of secession adopted by said State.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval bills and joint resolutions of the following titles:

H. R. 9829. An act authorizing the Secretary of the Interior to sell certain unused remnant lands to the board of county commissioners of Caddo County, Okla., for fairground and park purposes;
H. R. 11765. An act to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo.;
H. R. 816. An act for the relief of Abraham Hoover;
H. R. 6609. An act for the relief of Arthur E. Rump;
H. R. 12463. An act to authorize the withdrawal of lands on the Quinaielt Reservation, in the State of Washington, for lighthouse purposes;
H. R. 16476. An act authorizing the Secretary of the Interior to issue patent to the city of Susanville, in Lassen County, Cal., for certain lands, and for other purposes;
H. R. 6420. An act for the relief of Ella M. Ewart;
H. R. 13415. An act to increase the limit of cost of public building at Shelbyville, Tenn.;
H. R. 14679. An act for the relief of Clarence L. George;
H. R. 2728. An act for the relief of George P. Heard;
H. R. 14685. An act to satisfy certain claims against the Government arising under the Navy Department;
H. R. 3920. An act for the relief of William E. Murray;
H. R. 13965. An act to refund to the Sparrow Gravely Tobacco Co. the sum of $176.99, the same having been erroneously paid by them to the Government of the United States;
H. R. 13717. An act to provide for leave of absence for homestead entrymen in one or two periods;
H. R. 12844. An act for the relief of Spencer Roberts, a member of the Metropolitan police force of the District of Columbia;
H. R. 10765. An act granting a patent to George M. Van Leuven for the northeast quarter of section 18, township 17 north, range 19 east, Black Hills meridian, South Dakota;
H. R. 1528. An act for the relief of T. A. Roseberry;
H. R. 17045. An act for the relief of William L. Wallis;
H. R. 1516. An act for the relief of Thomas F. Howell;
H. R. 14405. An act for the relief of C. F. Jackson;
H. R. 14404. An act for the relief of E. F. Anderson;
H. R. 16205. An act for the relief of Davis Smith;
H. R. 10460. An act for the relief of Mary Cornick;
H. R. 16431. An act to validate the homestead entry of William H. Miller;
H. R. 18202. An act to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes;
H. J. Res. 249. Joint resolution for the appointment of George Frederick Kunz as a member of the North American Indian Memorial Commission; and
H. J. Res. 295. Joint resolution authorizing the Secretary of War to return to the State of Louisiana the original ordinance of secession adopted by said State.

TAX UPON OPIUM AND ITS DERIVATIVES.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 6282, with Senate amendments, disagree to the Senate amendments, and ask for a conference. This bill is what is known as one of the opium bills. The House passed the bill and sent it to the Senate about a year ago.

The SPEAKER. The Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 6282) to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent to take from the Speaker's table the bill just read—H. R. 6282—disagree to the Senate amendments, and ask for a conference. Is there objection?

Mr. COX. Mr. Speaker, reserving the right to object, I have a tremendous amount of protest from the physicians in my district against this bill. They feel that it is going to handicap them by requiring them to keep a record of all opiates of all kinds and classes administered by them to their patients; and, then, another class of them apparently have an idea that they will not be permitted under the terms of this bill to administer opiates, but have got to apply to a specialist for it. If there is any way of taking care of that provision so as to not everlastingly annoy the country physician, I hope the gentleman will look after it in conference.

Mr. UNDERWOOD. I do not expect to be on the conference on the bill myself; I have not time to do it; but I will say to the gentleman from Indiana that there is nothing that I know of in the bill that requires the employment of a specialist. The Senate amended the bill by not requiring the doctors to make a record of the cases.

Mr. COX. Is that what is called the Nelson amendment?

Mr. UNDERWOOD. Yes. That would go to conference. On the other hand, the people who are anxious to suppress the opium traffic are very anxious to have this Senate amendment disagreed to, but it is a question in controversy. My request would only send the bill to conference.

Mr. COX. I am very much in accord with the whole tenor of the bill, and I have argued it out with quite a number of my physicians; but they come back to me with all kinds of statements and stories to the effect that it will practically ruin a country physician, a man who lives out in the country, as an illustration, and say, in addition to that, it will give the pharmacist in the towns and in the cities the right and power to mix up all opiates, and they will afterwards be debarred from all that practice. My only purpose in rising was to say that I hope that when the bill comes out of conference it will be so framed as to literally, if possible, suppress the traffic, but at the same time protect, as far as possible, the country practitioner.

Mr. UNDERWOOD. That issue will go to the conference, and I am not able to give an opinion at this time as to whether the latitude can be given that is warranted in the Senate amendment and at the same time protect the people against the traffic in opium. But that is a matter that the conferees will have to work out.

Mr. ADAIR. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Indiana?

Mr. UNDERWOOD. Certainly.

Mr. ADAIR. In this connection, Mr. Speaker, I would like to state that I have received some telegrams from druggists since the Senate amended this bill, very seriously objecting to the Senate amendments. They feel that the bill as amended will not restrict the sale of opium as it was intended to do by permitting physicians to make use of this drug as they will be allowed to do under the provisions of this bill. They feel that the bill as it is now written and amended by the Senate imposes upon them certain requirements, and at the same time gives physicians certain privileges that physicians should not have if the business is to be stopped.

Mr. UNDERWOOD. That is the real point in controversy. There are a number of other amendments to the bill, but that is the most important one. That will go to conference for the conferees to work out under this request of mine.

Mr. ADAIR. But the bill, as I understand it, did provide that physicians and operating surgeons prescribing opium should keep a record showing when it was prescribed and to whom it was prescribed, so that the record would be open to inspection by the inspectors of the Government.

Mr. UNDERWOOD. The original bill did, but I understand the Senate amendment has modified that.

Mr. ADAIR. I think that is what the druggists are objecting to. They say it is modified in such a way that the dope fiend can obtain it through physicians in the future, as they have done in the past.

Mr. UNDERWOOD. That will go to the conferees.

The SPEAKER. Is there objection?

There was no objection; and the Speaker announced as the conferees on the part of the House Mr. KITCHIN, Mr. HULL, and Mr. MOORE.

SILETZ INDIAN RESERVATION.

Mr. HAWLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAWLEY. Yesterday, just before adjournment, the House was considering the bill (H. R. 15803) to amend an act entitled "An act to authorize the sale of certain lands belonging to the Indians on the Siletz Indian Reservation, in the State of Oregon," approved May 13, 1910. The bill had been considered in Committee of the Whole and had been reported favorably from the Committee of the Whole with an amendment. The previous question had been moved on the bill and amendment to final passage, and the vote taken on the previous question, and point of order made that no quorum was present. The RECORD reads as follows:

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. FITZGERALD. Mr. Speaker, I demand a division.

The House divided; and there were—ayes 40, noes 7.

Mr. FITZGERALD. Mr. Speaker, I make the point of order there is no quorum present.

The parliamentary inquiry is this: Is that bill now the unfinished business for to-day?

The SPEAKER. It would have been if the previous question had been ordered upon it, which was not done.

Mr. FITZGERALD. The gentleman did not finish reading the RECORD. I immediately made the point of order that there was no quorum present.

The SPEAKER. It goes over until two weeks from Monday.

Mr. MANN. The next unanimous-consent day.

The SPEAKER. Yes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 178. Joint resolution granting authority to the American Red Cross to charter a ship or ships of foreign register for the transportation of nurses and supplies and for all uses in connection with the work of that society.

SECOND HOMESTEAD AND DESERT-LAND ENTRIES.

Mr. FERRIS. Mr. Speaker, I ask unanimous consent to call up H. R. 1657 from the Speaker's table, and to disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman asks unanimous consent to call up a bill the title of which the Clerk will report.

The Clerk read the title of the bill (H. R. 1657) providing for second homestead and desert-land entries.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent to take this bill from the Speaker's table, disagree to the Senate amendments, and ask for a conference. Is there objection?

There was no objection; and the Speaker announced as conferees on the part of the House Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH.

ENLARGED HOMESTEADS.

Mr. FERRIS. Mr. Speaker, I ask unanimous consent to call up from the Speaker's table H. R. 1698, and to disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read the title of the bill (H. R. 1698) to amend an act entitled "An act to provide for enlarged homesteads," and acts amendatory thereof and supplemental thereto.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent to take this bill from the Speaker's table, disagree to the Senate amendments, and ask for a conference. Is there objection?

There was no objection; and the Speaker announced as conferees on the part of the House Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH.

THE WAR IN EUROPE.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent to address the House for not exceeding 10 minutes.

The SPEAKER The gentleman from Texas [Mr. SLAYDEN] asks unanimous consent to address the House for not exceeding 10 minutes. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Speaker, a few days ago one of my friends called my attention to an editorial, clipped from a New York paper, which impressed me as containing such pertinent and wise observations that I have determined that it will be useful to print it in the RECORD. I ask the Clerk to read it.

The Clerk read as follows:

A WORLD IN LIQUIDATION.

There should be little need to seek abstruse reasons for the world war, precipitated by the German militarist party with the Emperor at its head. He was probably never more sane in his life. But his overarmed country, like other countries of Europe, but in a more acute degree, was in the position of the great dry goods house which recently failed. Armament expansion could not go on, and it could not stop.

For such a situation the only possible liquidation was war. No one can believe that the initial quarrel, deliberately picked with Servia by Austria, could possibly have occurred without the connivance of the German ruler. If war was unnecessary in this case, what shall be said of four declarations of war in 48 hours, including Belgium, of whose neutrality Germany is a guarantor?

From various parts of the country this newspaper is receiving "prayers for peace." It would be a poor newspaper sheet, indeed, which could not make its own prayer in such an emergency. But the present crisis, dreadful as it is, still represents the only possible cure for a disease which has been affecting the whole world, including ourselves, since the Franco-German War of 1870.

There is just one cure, and if it were possible for some all-powerful autocrat to decree peace at this moment, the uneradicated seeds of mischief would still be there. Another world war would be merely a question of a few months. In no callous or cynical spirit it is said here and now that bleeding is the only cure for a disease which was hurrying the people of the earth into bankruptcy and barbarism.

It is entirely possible that the war may be mercifully short. Whatever the steps taken may be, the banks of Europe, and especially those of Germany, will have suspended payment in a few days. Germany has cut off the Russian supply of grain to her people. She can not depend upon getting supplies of food, with any certainty or regularity, from this country or Argentina, and least of all from Australia. She can not feed her 60,000,000 people, largely industrial, without such assistance. Her one desperate hope is that she may make some such whirlwind 30-day campaign of victory as Frederick the Great made a century and a half ago.

This is her one remote chance, and if she wins, victory may be indistinguishable from defeat, in its effect upon her neighbors and customers.

Mr. SLAYDEN. Mr. Speaker, the opening paragraph of that editorial is my text for the few brief remarks I shall submit. I may say in this connection that it is not my purpose to harshly criticize any one Government or ruler. My criticism is directed at a policy—a policy of crime and disaster, as I view it—common to all of them, and from which, I may say in passing, we are not entirely exempt.

The editor is right. There is no need to seek for abstruse reasons for the almost world-wide war recently begun in Europe, which grew out of a relatively unimportant quarrel between Austria and Servia. The reason is so plainly seen that he who runs may read. It is clearly the result of excessive armament, and it forever disposes of the argument that great preparedness for war is the way to insure peace. The war of all Europe shows that it has precisely the reverse influence, as some of us have contended all along.

The advocates of peace through arbitration have expected and have met the sneer that their work has been in vain. But these scorners overlook the fact that there has been no general agreement to arbitrate international disputes. The plan of reason has had no trial. These advocates of the policy of suspicion, hatred, discord, and blood have never had any sympathy with the effort to substitute reason for force in the adjustment of quarrels between States. It does not suit their purposes.

This opposition has come from people who really seem to believe that the only way to keep the peace is to have the whole world ready to fight, from some who hope to gain promotion, high rank, and fortune through war, and from commercial interests which make great earnings in the traffic in war material. The last is by far the more important and influential class. It controls newspapers and magazines, parliaments, and rulers.

The one plea in justification of a policy which is piling high the burdens of the people has been this now thoroughly discredited and exploded argument that what was paid out for excessive armaments was merely a premium on insurance against war. The world has already paid out so much in these premiums that it is bankrupt, and the war has come after all.

In all its horrible nakedness the argument now stands exposed. Will the people and their representatives ever again be deceived by these bloody fallacies? I hope not, and I am inclined to believe they will not.

In Germany, France, England, and Austria thousands of good men and women have protested and are now protesting against this "greatest crime of the ages," as Gen. Miles has called the war in Europe.

Mr. Speaker, the peace movement has not been in vain. It has made the people think. Millions now see and understand the danger of being overarmed where only thousands saw it before.

A crack-brained boy assassin in Servia killed a man and woman, and straightway kings and emperors seized on the incident as an occasion for redefining territorial boundaries and ordered thousands, it may be hundreds of thousands, of other men to their deaths. Nothing could be less logical or more

cruel. The boy assassin is forgotten. His crime served as a pretext for the ambitious monarchs, and he has gone to oblivion. Meantime Europe is a slaughterhouse and the plains of Belgium are soaked with blood.

Germany, France, England, and Austria, centers of learning, art, and industry, are in a death grapple. Who will gain? Our former President, Mr. Taft, answers that question when he says that "the immense waste of life and treasure in a modern war make the loss to the conqueror only less, if it be less, than the loss of the conquered."

Already we feel the burden of this unparalleled war here in the United States. The South has paid a heavy toll in the reduced price of its greatest staple, cotton. Private property at sea under the flag of an enemy is still captured and appropriated in prize proceedings, which is only another way of saying that piracy survives among the so-called civilized and Christian nations.

The interruption of commerce and suspension of traffic on the high seas means inconvenience and suffering for all the people, whether at war or peace. Quick communication and interwoven interests make it more important now than ever in history that peace shall be preserved if all are not to suffer, innocent and guilty alike, if not in the same degree.

The press reflects the people, and newspapers are saying that if there had been no excessive armaments there would have been no war. The great preparedness compelled it, and, in the language of the editorial which the Clerk read, "for such a situation the only possible liquidation was war."

That, sir, is the lesson of the greatest crime of the ages.

War lords have much to answer for, and I hope full settlement will be exacted, even if it takes thrones and dynasties to pay the bill. Workingmen are more useful to the world than kings, and the wrong men are dying. [Applause.]

PROCEEDINGS OF THE HOUSE.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. I ask unanimous consent to address this House for about 10 minutes.

The SPEAKER. The gentleman from Connecticut asks unanimous consent to address the House for not exceeding 10 minutes. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, will the gentleman state the subject?

SEVERAL MEMBERS. Do not object.

The SPEAKER. Is there objection?

There was no objection.

Mr. DONOVAN. Mr. Speaker, yesterday we had a spectacle here that may do credit to the educated man, the great leader of the minority, rising from his feet and resorting to tactics that he has many times resorted to, claiming that he made a motion for the purpose of debate, and so stating, but when the opportunity came to him, and he got possession of the floor and the subject matter, he was silent and said not a word. Now, the secret of it was this: We were considering under the Unanimous Consent Calendar, and by the Speaker the question was stated, "Is there objection to the present consideration?" Time after time periods of half an hour were used, and sometimes objection, but no consideration except gentlemen listening to themselves. Now, when the matter of the post office at Plymouth, Mass., came up, a simple matter, the report showed that it involved the expenditure of $2,000 more; that was all. Not a member of the committee who reported the bill was present, and the gentleman in whose district the post office was located [Mr. THACHER] went over in the center and addressed himself to the leader of the minority, and that, too, was a spectacle. He was trying to enlighten the gentleman who had reserved the right to object.

The distinguished leader of the minority turned his head to one side, refused to be enlightened, and seemed to be bored by the gentleman's remarks. After that had been going on about 10 minutes I rose from my seat and addressed the Speaker and said, "Mr. Speaker, regular order." Well, the dignified gentleman who represents an Illinois district objected, as he often does, and quietly shifted to the Member from Connecticut the blame for the bill being shunted off the calendar. Well, the unsophisticated Member from Massachusetts swallowed the medicine, so to speak, and came over to me and begged me to withdraw. I had not made any objection. But here is the picture: A few moments afterwards an Indian bill came up, relating, my God, to a class of people who have been slaughtered and ruined always by the people of this country from the beginning to the present day, and this attitude was not neglected yesterday. That bill was introduced by one of his associates on his side of the House. Another simple matter. The question in the bill was, Shall the money from the sale of these lands be distributed pro rata amongst the Indians, or shall it be by the direction of the Secretary of the Interior? Well, the distinguished character reserved the right to object. Did he say anything on the Indian question? I refer everyone to the RECORD. Not a word. After those tactics had been progressing, I think, about 15 minutes I rose from my seat and addressed the Chair, "Mr. Speaker, regular order." Here is where the Ethiopian appeared in the woodpile. It was a gentleman on his own side who was talking; and instead of saying, as he had to the Member from Massachusetts [Mr. THACHER], "On account of the gentleman from Connecticut I will object," he changed his attitude—it was one of his own kind. That is the art of the man, the shrewdness of him; and we are told that shrewdness is a lower order of brain. [Laughter.] What did he do? If there is anything that rankles in the breast of the minority leader it is to put him in a position where his tongue must be stilled to silence, and it had to be stilled to silence in that parliamentary proceeding, but he rose to the occasion. He said: "I move, Mr. Speaker, that we go into the Committee of the Whole House on the state of the Union, where we can get a chance to debate this bill."

Let us see how he debated that Indian bill. The question was whether there should be a division pro rata amongst the Indians or whether it should be under the direction of the Secretary of the Interior. Here is the way our distinguished gentleman debated the bill—intelligent treatment, too, it was; just listen to it.

The subject of his remarks was that it does not do to throw a monkey wrench into the machinery, or whether it was wise for a monkey to do it. [Laughter.] That was the great leader's intelligent discussion of the Indian bill. It was what the gentleman from Minnesota [Mr. STEVENS] would call "chewing the rag." There was not a word said in regard to the Indian bill.

After making that point, and after getting the House into Committee of the Whole House, with a new presiding officer in the chair, he rose in his might and suggested to the Chairman that the first reading of the bill be dispensed with. Now, that was a momentous affair, because the bill was only seven or eight lines in length, and it took about that number of lines for the Chairman to repeat the statement of the gentleman from Illinois and have it acted upon. So that was a great saving of time. Then the point of order was made by myself of no quorum. The quorum came in, and the gentleman felicitated himself on the large number that were present. Then he went back to the monkey-wrench story and dropped into his seat, and that was all of his debate upon the Indian bill.

Now, Mr. Speaker, the point of order was made of no quorum, and Members came in here with an air of saying, "Who is it that made the point of no quorum?" One is somewhat in doubt where Congress meets. Not infrequently men may think that it meets in this Hall; but by the air that some Members put on it seems that they think it ought to meet in the House Office Building. Perhaps it ought to meet across the Atlantic, where some are enjoying themselves and still drawing their salary. Perhaps some may think it ought to meet in the State of Ohio, where the enlightened Member of the House, Dr. FESS, has been instructing his scholars, and where he has spent his time, except when he comes back occasionally to dwell on the ability and honor of Fire Alarm Foraker or else abuse the President of the United States.

Gentlemen, I hold in my pocket here to-day a tabulated statement by a Member of this House showing the attendance of his associates, who are more than half of the time away. What a spectacle it is! Last Friday we had a Private Calendar day, and we practically passed two bills on the Private Calendar on account of the filibuster by the minority leader and two or three of his associates. We passed two private bills. Now, that may have been all right. The filibuster was not for the purpose of defeating those bills, for they did not oppose them, but it was to defeat bills that were not in sight, bills containing the claims of people that had lost their all in the great conflict that raged, a sort of family affair between the North and the South. All they asked was that they be sent to a court for determination. The other side has a great regard for the court, but it filibustered for fear some of these bills would pass for the courts to pass upon, and so order them to adjust the claims. They would not trust them, and the filibuster was indulged in against these poor people for asking for a day in court. They denied these poor people a hearing in the only place in the United States where they could get it. That is the ability and management of the great gentleman from Illinois of public business. Oh, for the shades of Lincoln and Conk-

ling and Blaine! From what a height have their mantles fallen. [Applause.]

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 3561. An act to appoint Frederick H. Lemly a passed assistant paymaster on the active list of the United States Navy; to the Committee on Naval Affairs.

AMERICAN RED CROSS.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution 178.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 178) granting authority to the American Red Cross to charter a ship or ships of foreign register for the transportation of nurses and supplies and for all uses in connection with the work of that society.

Resolved, etc., That authority be granted to the American Red Cross, during the continuance of the present war, to charter a ship or ships of foreign register, to carry the American flag, for the transportation of nurses and supplies and for all uses in connection with the work of said society.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

Mr. MANN. Will the gentleman from Missouri yield me a little time?

Mr. ALEXANDER. Mr. Speaker, I yield to the gentleman from Illinois five minutes.

Mr. MANN. Mr. Speaker, this is a resolution in reference to the Red Cross, which recalls to all of us the present situation in the world. It seems to me that in this country at this time it is extremely important that everyone in official life, as well as those in private life, should resolve firmly that they will not be carried away with any hysterical emotion or by any partisan feeling for or against either side in this conflict abroad. [Applause.]

I believe that this is an opportunity for America which seldom or never has come before to any nation in the world. The great powers abroad are in deadly conflict. I had hoped and believed even after the war commenced that it would not really commence; but it looks now as though there would be a desperate struggle for existence by these nations engaged in war. There will be many times when complications will arise affecting our interests and our policies.

When men are engaged in a life struggle they are not careful or too particular about the interests of outsiders or about observing the ordinary courtesies or amenities laid down in advance for the control of conflicts. When these occasions arise where we are tempted to become partisan for or against, where we are tempted in order to preserve what we may call our honor to engage in the conflict, let us make up our minds now to keep our minds firm in that determination that this country shall not become under any circumstances engaged in the war on either side. [Applause.]

I believe the administration under President Wilson will be cool and calm. The danger will come when some American ship may be seized or some American interest may be affected, when people will become excited. It is the duty of all parties in this House and elsewhere, the duty of all good citizens, to stand behind the administration and make the administration feel that its duty to humanity, to civilization, and to the interests of the United States and her citizens is to keep out of the struggle [applause] and to make use of the opportunity which comes to us for our advance in civilization and power throughout the world. [Applause.]

Mr. ALEXANDER. Mr. Speaker, in harmony with what the gentleman from Illinois [Mr. MANN] has said, I may say that the present situation in Europe appeals to me very keenly. From the 12th of November last until the 20th of January I sat in council daily with the representatives of all of the countries in Europe now engaged in this deadly conflict. We then had under consideration the question of greater safety of life at sea. We met as friends with a common purpose, and at that time I could not discover any of the ill will that so soon would involves Europe in war, and I recall those men, splendid types of their several nations, men of the highest citizenship, distinguished for their great service on behalf of their Governments and for humanity, and I am wondering how this titanic struggle will affect their fortunes, as well as the fortunes of the Governments they served with distinction and honor. I wish to share the sentiment of the gentleman from Illinois that we, as a nation, may not become involved in that struggle otherwise than in a humanitarian way. Let our hearts go out to them in sympathy; let us be helpful to them in every possible way. Let us alleviate the suffering and woe, the distress, and the awful consequences of war. This resolution is an expression of the Red Cross of our country for those people, and this is an effort upon their part, with our help, to equip one or more ships under the American flag to go to the relief of those who will suffer in the war, and I trust the resolution will pass without a dissenting vote. [Applause.]

The SPEAKER. Without objection, the Senate resolution will be considered as read a third time and passed.

There was no objection.

WATER POWER ON THE PUBLIC DOMAIN.

The SPEAKER. Under the rule adopted the other day the House will automatically resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16673) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16673, with Mr. FITZGERALD in the chair.

Mr. MONDELL. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 1, lines 7 and 8, by striking out the words "or those who have declared their intention to become such."

Mr. FERRIS. Mr. Chairman, if the gentleman will yield I will ask how much time he desires?

Mr. MONDELL. Only a minute or two on this particular amendment.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to close debate on this amendment at the end of five minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to close debate on the pending amendment and all amendments thereto in five minutes. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, the bill provides that the Secretary of the Interior may grant leases to citizens of the United States or to those who have declared their intention to become such. These leases are, in a way, perpetual, although they may be terminated at the end of 50 years. I think it is a mistake, and I am sure it is a departure from our past policy to grant anything like a long-continued and what may become a permanent interest in the public lands to those who are not citizens of the United States. We do grant those who have applied for citizenship the right to make entries of some classes, but we require that they shall become citizens of the United States before their rights permanently attach. As these rights are for a considerable period of years, and to a certain degree permanent under certain conditions, I do not believe that they ought to be enjoyed by aliens.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wyoming.

The question was taken, and the amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I offer the following substitute for section 1 which I send to the desk and ask to have read.

The Clerk read as follows:

Strike out section 1 and insert the following:

"That the right of way through the public lands and national forests of the United States is hereby granted to any individual or association or corporation formed for such purpose who shall file with the Secretary of the Interior satisfactory proof of right under the laws of the State or Territory within which the right of way sought is situated, to divert and use the water of said State or Territory from the source and for the purposes proposed, for the purpose of irrigation or any other beneficial use of water, including the development of power, for the construction, maintenance, and use of water conduits, canals, ditches, aqueducts, dams, reservoirs, transmission and telephone lines, houses, buildings, and all appurtenant structures necessary to the appropriation or beneficial use of such water or the products thereof to the extent of the ground occupied thereby and 50 feet on each side of the marginal limits thereof. Also the right to take or remove from such rights of way and lands adjacent thereto material, earth, stone, and timber necessary for the construction and maintenance of such water conduits, canals, ditches, and other structures or works authorized under this act."

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that at the expiration of seven minutes, five of which will be controlled by the gentleman from Wyoming and two by some member of the committee, debate on this amendment and all amendments to the section close.

Mr. MONDELL. Mr. Chairman, I ask the gentleman from Oklahoma to make that 10 minutes. I think I would like to have 7 minutes myself.

Mr. FERRIS. Very well. I ask unanimous consent that all debate on this amendment and all amendments to the section close in 10 minutes, 7 to be controlled by the gentleman from Wyoming and 3 by some member of the committee.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent that all debate on the pending amendment and all amendments to the section close in 10 minutes, 7 minutes to be controlled by the gentleman from Wyoming and 3 by the gentleman from Oklahoma or some member of the committee.

Mr. FOWLER. Mr. Chairman, reserving the right to object, I understand that if this consent is given, no debate can be had on any other amendment to the section?

The CHAIRMAN. That will be the effect of it.

Mr. FOWLER. I desire to offer an amendment to the section, and I would like to have 10 or 15 minutes.

Mr. FERRIS. Then, Mr. Chairman, I ask unanimous consent to make it 20 minutes instead of 10.

The CHAIRMAN. What is to be done with the other 10 minutes? The gentleman from Oklahoma asks unanimous consent that all debate on the amendment and all amendments thereto to section 1 close in 20 minutes, 7 minutes to be controlled by the gentleman from Wyoming and 3 by the gentleman from Oklahoma. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The gentleman from Wyoming is recognized for 7 minutes.

Mr. MONDELL. Mr. Chairman, the bill which we have under consideration makes a very important radical departure from the past policy of the Government in the utilization of the public lands. We have heretofore granted easements over the public lands, terminable, in the case of easements for water-power purposes, at the discretion of the Secretary of the Interior and permanent as to other classes of rights of way for water. The bill under consideration provides for a lease for a term of 50 years, and yet provides an element of perpetuity, partly by reason of the provisions of the bill and partly by reason of the fact that these water powers must be developed under perpetual water rights. I think the new plan is a mistake from every standpoint, and I have offered an amendment, the purpose of which is to provide for the rights of way for all purposes of development connected with the use of water, and I shall follow this with other amendments mostly taken from a bill which I introduced some two years ago, intended to codify all our right-of-way acts for water-development purposes. The adoption of this amendment would in no wise modify any of the provisions of the bill relative to the control of the enterprises which might be established. All possible and all necessary provisions could be made and should be made for public control of these enterprises by the proper sovereignty. But this would make the right secure, and thus in my opinion give the people who are to be served by them the very cheapest possible power, and that is the end aimed at by the legislation. There has been a great deal said here about the combinations of water powers at the present time in the United States, and the statement is made as though it followed that the enactment of this legislation would break up this monopoly in the ownership of power and prevent future concentration or further concentration. As a matter of fact, there is nothing whatever in the legislation that can affect the present concentration of ownership or interlocking interests in water power except to have the effect of more completely centralizing them, because it will leave all present water powers compared with those to be developed in the future in a most advantageous position. Furthermore, under this bill the Secretary of the Interior could grant to one corporation all of the water power, all the lands controlling water power, in all of the United States. Furthermore, there is nothing in the legislation that in its operation would tend to increase the number of units of interest in water-power development.

The logical tendency of the legislation, in my opinion, will be to concentrate water power in a few ownerships rather than to separate it into many ownerships. As a matter of fact, I am not one of those who have been as much disturbed as some have been by the statement or the allegation that the water powers of this country are in comparatively few ownerships. The statements made in some Government publications relative to the matter are, in the first place, considerably exaggerated, and, in the second place, it is not extraordinary that bankers go into the banking business, that shoemakers make shoes, that millers go into the milling business. There are comparatively few great companies in the world making machinery which is utilized for the development of water power, and it is quite natural that those few companies should take some interest in the enterprises undertaken. There are comparatively few men with an intimate knowledge of water-power development and its detail, with the knowledge essential for success. Naturally, they become interested in power enterprises. The people are not so much interested in who runs the water powers as they are in their speedy development and in saving the people's control of these enterprises and of their cheap utilization. The legislation before us, in my opinion, is not of a character to tend to the speedy development and cheap sale of power. Furthermore, I want to emphasize the fact that if there be any great evils in the present condition of water-power ownership, and if great evils would arise from the continuation or extension of that condition of ownership, there is nothing in this legislation to remedy that condition or prevent it in the future. I believe it will tend to intensify the condition complained of.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, I could not follow the long amendment offered by the gentleman from Wyoming, and neither could I follow all he said. In any event, Mr. Chairman, to offer a substitute section from another bill to the original bill under consideration would throw the entire bill and purposes of it out of joint and out of order, and I hope no considerable portion of the committee will feel there is any necessity for voting for the amendment. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Wyoming.

The question was taken, and the amendment was rejected.

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of section 1, on page 3, add the following proviso:
"*Provided further*, That the Interstate Commerce Commission shall have power to regulate and adjust rates for the use of such hydroelectric power in all cases coming under Federal control."

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to proceed for eight minutes. I may not use that much time.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for eight minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Chairman, the object of this amendment is to place the regulation and control of hydroelectric power under the control of some specific body which is responsible to the public. The Interstate Commerce Commission is the most desirable for this work, as one of its duties is to supervise and regulate railroad rates. It makes a study of rates and is as well prepared to regulate the rates of business operated by hydroelectric power as it is that of business operated by steam power.

As I view this bill, and also as I viewed the Adamson dam bill, there is a lack of such provision, and I feel, Mr. Chairman, that if we pass this bill in its present form we will feel very keenly in the future the lack of having made a definite provision whereby this power can be regulated and controlled. The length of a lease is not very important if there can be an assurance of the regulation and control of the power which this bill seeks to confer. It has been contended by some that a 50-year lease ought to be given in order to encourage capital. I had felt that a less number of years would be just as great an incentive to the encouragement of capital, for it will be eagerly sought far and near. I am not so particularly interested in the number of years which the lease will run as I am in the certainty of the control of the powers granted in the lease. Mr. Chairman, nowhere in this bill is there a provision giving definite power to anyone to control rates.

In Canada the law limits the length of the lease to 20 years, and, as I recollect, a definite provision is made in the law for the regulation and control of the hydroelectric power and its use to the public. If this can be done, then the rights of the people will always be secure. If it is left uncertain, then the rights of the people will be jeopardized. You can not change the hearts of men by the enactment of law unless that law is strong enough to regulate the hearts of men. The same old heart that was greedy with the power generated by coal and wood will be just as greedy with the power generated by water. The same old heart that is greedy for dollars and cents in the business of to-day will be just as greedy in the business of the future. And it is idle to talk about men being sincere and honest and fair about incomes, because I have never seen a man who ever stopped to think of what the results would be while calculating his income. The first thing he does is to figure in dollars and cents his income. After that he may think about something else.

Why, all over this country to-day we find a spasmodic rush on the part of dealers for the purpose of enhancing their incomes, on a plea that it is necessary as a war measure. It

reminds me of the old story of the Jew pricing his silks to a lady customer at about twice the usual price, and when she complained he explained: "Vell, madam, I vant to tell you that all the silkvorms have died, and silk has gone up." His son was present and heard his father's explanation, and thought it was fine. His father went to dinner and left his boy in charge of the store. Another lady customer came in to buy some tape, and, like his father, he priced it to her at twice the usual retail price. She complained, and he replied: "Vell, madam, I vant to tell you that all the tapevorms have died, and der price has gone up." His explanation had as much reason to it as that now given by the merchants for extortion and open robbery. If prices continue to increase, the public will soon be cut so short in food supplies that all the "tapeworms" will die sure enough.

Now, we will find the same old greedy heart in business operated by hydroelectric power as is manifested in the business now. I imagine I can hear some time in the future, when our posterity is meeting with the same conditions of extortion that we are to-day, the voice of some Member's grandchild, after looking over the CONGRESSIONAL RECORD on the vote on this bill, exclaiming "I wonder what made grandpa vote for that bill." Now, in order to command the respect of our grandchildren, in order to command the respect of posterity, and in order to command the respect of mankind, we ought to regulate this power by definite terms, so that in the future the rights of the people will be safe.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman has that right.

Mr. FERRIS. Mr. Chairman, I yield to no man, and I think the committee yields to no one, in respect and admiration for the Interstate Commerce Commission; but there is a limit to all human power to work, and the Interstate Commerce Commission has had pressed down upon them now more work than they can do.

Another reason why the gentleman's amendment should not be agreed to, as I think, is that the Secretary of the Interior, as the question now stands, with so much of the land in public ownership and so many Federal questions involved, is, according to every witness that appeared before us, the proper one to carry on this work. We had before us ex-Secretary Fisher, Mr. Pinchot, Secretary Lane, George Otis Smith, and also numerous engineers. The time will, in the future, doubtless come when a Federal water-power commission will be created that will take over all the water-power interests in the War Department, in the Agricultural Department, and in the Interior Department, and will be a great constructive force in this country, as it ought to be. Yet I think there are but few of us now who will agree that we can carry out a program of that sort at this time, and I think there are still fewer of us who will agree that we ought to take away from the organized force in the department their ability and power to deal with this question. The Interstate Commerce Commission is not now organized to handle the development of water power on the public domain.

Again, on page 4 of the bill, in section 3, it specifically reserves to the Federal Government the right at any time to take the regulation away from the Secretary of the Interior and give it to such a body as Congress may decree. Whether it would be in keeping with the amendment of the gentleman from Illinois and be the Interstate Commerce Commission, or whether it would be a Federal water-power commission, I do not know, nor do I know which is best; but in either event all rights are reserved to Congress, and I hope the gentleman's amendment will not be agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. FOWLER].

Mr. JOHNSON of Washington. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That each lease made in pursuance of this act shall provide for the diligent, orderly, and reasonable development and continuous operation of the water power, subject to market conditions, and may provide that the lessee shall at no time, without the consent of the Secreary of the Interior, contract for the delivery to any one consumer of electrical energy in excess of 50 per cent of the total output.

Mr. MONDELL. Mr. Chairman, I move to strike out the word "reasonable," in line 14, page 3, and insert the word "complete."

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 3, line 14, strike out the word "reasonable" and insert the word "complete."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MONDELL. Mr. Chairman, under this bill the Secretary of the Interior is given absolute power and control over these enterprises. A wise Secretary of the Interior would undoubtedly, in deciding between various applicants, other things being equal, favor the applicant who promised the largest development. And, everything being equal, he should, it seems to me, favor the applicant who would agree to the practically complete development of the particular power proposed to be developed. Of course it would be necessary that he should give the individual or corporation proposing the development a reasonable length of time in which to provide for this development. But if we are to give the Secretary authority, unlimited authority, without any particular guide to its exercise, one Secretary might hold to one view of his duties and responsibilities and another Secretary to another.

Under a bill like this I doubt, without radically changing the character of the bill, if it would be possible to lay down a great number of rules to guide the Secretary, but we should at least adopt some, and one proper rule, it seems to me, would be a rule for the complete development within a reasonable time, depending upon the conditions of the market and the enterprise undertaken. The complete development, the complete utilization of a given opportunity, for power development is highly important. Nothing is more wasteful than the limited utilization of large opportunities for power development. I assume in any event that any Secretary would take that fact into consideration; but I think we should provide, as my amendment does, that in any grant which the Secretary makes he shall include, as one of the conditions, that eventually, and subject to the market conditions, there shall not only be a diligent and orderly but a complete development of the power.

Mr. RAKER. Mr. Chairman, the provision of this section provides for diligent work. This is important. It ought to be done. The provision provides for the orderly disposition of the work. It would apply to the dam, and to the survey, and to the engineering, and to the work after it had started in upon their reservoir, their dams, their conduits, and whatever might be necessary to complete the system, as well as the installation of the necessary machinery—a reasonable development.

Now, to say that it must be a complete development at once would be to say something that the gentleman from Wyoming would not want.

Mr. MONDELL. Mr. Chairman, my amendment proposes nothing of the kind, as the gentleman from California will observe.

Mr. RAKER. Sure; I have it right here. I will call the gentleman's attention to it; a complete development at once, before you do any other work. You will notice——

Mr. MONDELL. All this development, this diligent development, this orderly development, is subject to the market conditions. If the gentleman will allow me—I do not want to take his time—all that I propose is that the Secretary, in making these contracts, shall make them with those who will agree to ultimately complete the development of all the available power.

Mr. RAKER. There is not any question as to what this language means; that each lease made in pursuance of this act shall provide for what? The lease shall provide for what? First, a diligent working of it; second, an orderly working of all the various conditions of the plant; and, third, a reasonable development. You do not want a man to say, "I am going to make a complete development at once." It should be a reasonable development, as he moves along from day to day, from week to week, from month to month, with a plant costing $10,000,000 or maybe $50,000,000. You should require that he must reasonably continue to invest his money and build his dam and his reservoirs and his ditches; and it must not only be reasonable, but it must be a continuous operation of the water power. That is all that could be asked under this, all subject to market conditions.

Now, the gentleman would not want to say——

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield to me?

The CHAIRMAN. Does the gentleman from California yield to the gentleman from Illinois?

Mr. RAKER. Yes; I will yield to the gentleman.

Mr. THOMSON of Illinois. Does not the gentleman also feel that when a project presents itself at the time the lease is

entered into, it is impossible for anybody to tell just what may be or may not be a complete development of that project?

Mr. RAKER. I think the gentleman is eminently correct on that, and that was one of the matters considered by the committee—that there must be some judgment; there must be some discretion; there must be something connected with this work, so that a man could be in a position to work out the ultimate complete project as specified and as intended, so long as he reasonably develops that project.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. RAKER. I yield for a question.

Mr. MONDELL. The Secretary must exercise some discretion in these cases?

Mr. RAKER. Surely.

Mr. MONDELL. Now, as between an applicant who promises that within a reasonable length of time and subject to market conditions to completely develop the enterprise, and another applicant who simply promises to develop it along, which of those applicants should the Secretary give the preference to?

Mr. RAKER. That would not be enough facts upon which any Secretary or judge could determine.

Mr. MONDELL. Under this language the Secretary can not turn down the man who promises complete development and can turn down the man who gives no assurance in that direction.

Mr. RAKER. I believe it is unfortunate; but it is the consensus of opinion of this House so far that the Secretary should have that discretion. We hope it will work out all right. But any man who would come in and tell the Secretary, "I will complete this immediately," would of necessity be turned down by the Secretary as a fakir.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. JOHNSON of Washington. Mr. Chairman, the gentleman from California [Mr. RAKER] has just remarked that "it seems to be the consensus of the House, so far at least, favors the provisions of this bill," and so forth. I want to remark the peculiarity of that remark in view of the fact that there are not 30 Members on the floor at the present moment, including three or four members of the committee itself, which has 21 members.

Mr. Chairman, with this bill we are running further and further into red tape, and any man who knows the West will understand what that means.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Washington yield to the gentleman from California?

Mr. JOHNSON of Washington. Yes; I yield.

Mr. RAKER. Is it not a fact that there is less red tape in the provisions of this bill than under the present law to-day respecting that detestable revocable permit that has prevented the development of water power in the last 10 years in the West?

Mr. JOHNSON of Washington. I will reply to the gentleman by saying that, even when this bill is made into law, one will still have to go to the Secretary of Agriculture for certain permissions, and to the Secretary of the Interior, and to the Reclamation Service, and to the Indian Bureau, and so on, for certain permissions on the same project. I had a case in point only yesterday. The valuable low lands between Seattle and Tacoma, both of which cities are on tidewater, is marked by a small stream that flows with so little movement that it moves either way. Sometimes it flows into the harbor in front of Seattle, and sometimes into the harbor in front of Tacoma. In either event it floods the rich surrounding territory at one of its ends or the other. As long ago as the 1st of June, attempts began to secure the right to place a small dam in that stream, so that its waters would always flow one way. The first release had to be obtained from the Reclamation Service in the Interior Department. The next release had to be received from the Geological Survey, in the Department of Agriculture. The survey had to make sure there is no water power in that dead-level stream. Then, the next release required is from the Indian Office, because there is a half section or so in the neighborhood given over to an Indian reservation known as the Muckleshoot Reservation; and after those permissions are received, one must go to the Commissioner of the General Land Office and get his O. K., and then pass the proposition up to the Secretary of the Interior, who will issue a permit for the commissioners of the two counties, who, after many years of loss and delay, have worked out this plan to go ahead with the work.

That work should be completed before the rainy season sets in out there—the 15th of September. The first of these applications was made in June, and they are not ready yet. I went yesterday to these various departments and saw all the clerks who have anything to do with it, and found a great number on their vacation. These papers are piled up. The departments are busy. Each one of these bills makes more work and more congestion. The work overlaps, and the more you take away from the States their rights to control their own domain and their own resources the greater will be the power of the bureaus, the more the congestion, to say nothing of greater delay and still more red tape.

Mr. FERRIS. Mr. Chairman, just a word on the amendment offered by the gentleman from Wyoming [Mr. MONDELL]. The same question came up in the hearings, and I think the hearings dealt with it in an intelligent way. If I may, I will read what was there said. Mr. Pinchot was on the stand, and I may add that while my friend from Wyoming, Mr. MONDELL, has often asserted that he is a good conservationist, we have not always been able to agree with him about it, but I find him in this particular instance going in excess and further than Mr. Pinchot would go. His amendment strikes out the word "reasonable" and compels them to make complete development. The effect of it would be that the Interior Department might require the power company to do an idle and a silly thing, to wit, to create power that could not be used or sold.

Mr. MONDELL. Will the gentleman yield?

Mr. FERRIS. I do.

Mr. MONDELL. I find that a real conservationist like myself frequently would require things that a make-believe conservationist never would think of requiring.

Mr. FERRIS. I thought, perhaps, the gentleman would add that. Now, let me read from the hearing:

> Mr. PINCHOT. Then, on the same page, lines 15 and 16, "That each lease made in pursuance of this act shall provide for the reasonable development." I would like to insert there "provide for the prompt, orderly, and reasonable development," in accordance with the outline of policy submitted at the beginning.

Now, we did insert the suggestion made by Mr. Pinchot, and listen to what he says about it:

> Enormous holdings of undeveloped water power by the big water-power interests make it very desirable, I think, that prompt development should be insisted on. Then, in the same section, lines 16 and 17, "continuous operation of the water power." That should be made, I think, "subject to market conditions."

And we put that in. He said further:

> I do not think it is fair to insist that the companies should continuously operate in case market conditions were unfavorable.

Now, a company might have a water-power plant in Wyoming where they could generate 100,000 horsepower, where there was no market at that time for more than 50,000 horsepower. Surely no one would want them to generate power that could not be sold. That would merely be putting a burden on the consumer. This dead expense would be taken into consideration by the public utility commission that regulated it, if the regulation was in the States. If in the Secretary, he would be compelled to take it into consideration. Surely, few will desire to do any such thing. That would merely be a burden that the Secretary of the Interior would have to take into consideration in the event of regulation by the Secretary of the Interior.

Mr. MONDELL. Does not my friend think that the Secretary of the Interior should have the authority, and that it should be a part of the contract that when there is a market there must be a complete development?

Mr. FERRIS. Precisely, and that is included in the bill, as we think, because the bill provides for the reasonable, orderly, and prompt development according to the market conditions; so that if there be a demand for the power they must not only generate it, but develop it properly, orderly, and in a reasonable way. This is all provided for. That phase of the bill was carefully considered.

Mr. SMITH of Minnesota. In drawing a lease, would you use the word "reasonable" where you wanted to obtain a certain amount of work done?

Mr. FERRIS. The gentleman asks about a specific case. The Secretary of the Interior has unbounded authority to put in the lease any provision that he thinks will more effectively carry out the provisions of this act, and I should not like to render a horseback opinion as to whether a specific word should go in or out; but I have no doubt that the Secretary of the Interior will put in every provision for the public interest that he can put in and at the same time procure development. I am satisfied that is what the gentleman would have him do.

Mr. SMITH of Minnesota. Is it your opinion that the word "reasonable" would go into the lease, and be a part of the language of the lease?

Mr. FERRIS. Not necessarily. This section does not pretend to lay down what the specific provisions of the lease shall be; it merely provides what the law shall be. Then a later section does authorize the Secretary of the Interior to make such a lease as he desires in order to carry out the terms of the lease. It is possible, of course, that he might put it in or put it out.

The question at issue has nothing to do with the formal parts of the lease.

I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the amendment of the gentleman from Wyoming [Mr. MONDELL].

The amendment was rejected.

Mr. MONDELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Wyoming offers an amendment, which the Clerk will report.

The Clerk read as follows:

Line 15, page 3, after the word "conditions," strike out the remainder of the section and insert a period.

Mr. STAFFORD. Mr. Chairman, I have a preferential motion, to perfect the section, before the motion of the gentleman from Wyoming [Mr. MONDELL] is voted on.

Mr. MONDELL. This does not strike out the paragraph.

Mr. STAFFORD. But the gentleman's amendment strikes out the portion of the section which I wish to perfect.

The CHAIRMAN. The gentleman from Wisconsin will send his amendment to the desk.

The Clerk read as follows:

Amendment by Mr. STAFFORD:

Page 3, line 16, strike out "may" and insert "shall." In lines 17 and 18, strike out the words "without the consent of the Secretary of the Interior."

Mr. STAFFORD. Mr. Chairman, if there is any merited criticism of this bill, it is that we lodge too much discretion in the Secretary of the Interior, and the amendment I propose seeks to take away discretion which I think could very easily be abused by the Secretary or his subordinates, to the disadvantage of the large number of consumers of hydroelectricity. I can not conceive of a case where we should allow the Secretary to permit a contract to be entered into whereby more than 50 per cent of the hydroelectricity generated might be disposed of to any one consumer.

Mr. THOMSON of Illinois. Will the gentleman yield?

Mr. STAFFORD. I will.

Mr. THOMSON of Illinois. Can not the gentleman conceive of a case where about the only consumer that is available in a community near a water-power site is a town or city? Now, some one takes that water power, finances it and develops it, and they ought to have the right to sell all of its power to that municipality.

Mr. STAFFORD. That objection does not lie to the amendment I offer, for the reason that there is a provision in this bill permitting municipalities to generate their own power; and even in the case the gentleman cites it would be far better not to allow the generated power to be contracted for by the municipality alone, but compel the company to have some reserve surplus power that may be distributed through competition for the benefit of other users.

In section 7 it shows the real effect of the provision, because there authority is given to the Secretary to lengthen the contract beyond the original leasing period of 50 years. You may authorize him to enter into a contract for 100 years, and saddle on the users, or those seeking this power, a condition whereby they will be unable to obtain necessary power. I believe that these private companies should not be permitted to sell all their power to one concern, but by this provision you are vesting in the Secretary of the Interior full authority to contract with one person for all the power generated, on the idea that there is but one who will want to use it, when others may want the power, or later new parties may need it and can not obtain it. That will be a monopoly in the hands of this one person, sanctified by a contract executed by the Secretary of the Interior, and perhaps lengthened beyond the original leasing period of 50 years, and perhaps in perpetuity. It will be saddled on the community and on the users in that neighborhood for long years thereafter without any chance for power from the lessee. Although this merely provides in this section for a lease for 50 years, nevertheless by section 7 you authorize a contract beyond a 50-year period, and wherever such is authorized you are binding all persons, present or in the future, who may need power with this exclusive contract from which they can not gain relief—that is monopoly carried to an extreme degree.

Take the Hydroelectric Co. of Canada. They are not disposing of that great power to any one company. They are seeking new users and new municipalities, and the various localities are getting the benefit of it. But here you would hamstring the localities and new manufacturers who would come into the territory after the power is developed by their not being able to get any power at all. Such a possible condition should not be permitted to arise.

Mr. THOMSON of Illinois. Mr. Chairman, the gentleman from Wisconsin has proposed an amendment to section 2, but has addressed most of his argument to section 7. It seems to me they are separate propositions. I hope the amendment suggested by him to section 2 will not be adopted. Because the section as drawn does not fit some particular case which the gentleman has in mind he thinks the section is not properly drawn. If the amendment which he suggests is adopted, it is very easy to think of a number of cases wherein the object of the bill would not be carried out. It might well be that there would be a water-power site capable of developing, say, 20,000 horsepower, near a city or prosperous town that was anxious to get electricity up to that amount for lighting purposes or street-car purposes or domestic purposes. It might be that the only chance of getting it would be through this water-power site. It might be that under the laws of their State or the provisions of their charter that they would not have the power or right as a municipality to go into the business of developing water power and manufacturing electricity even for their own use. Now, in such an instance as that a city must depend upon some individual or association or corporation to finance and undertake to develop that site and sell the power to the city under proper regulations controlled, possibly, by a commission of the State.

I the amendment of the gentleman from Wisconsin should be adopted, it would mean that this company could not sell more than 50 per cent of the generated power to that municipality. There might not be any other user within such a distance as would make it economical or profitable to transmit the power which the company developed, and that would simply mean that this section would force that company to finance and develop a proposition under a 50 per cent income basis.

Mr. STAFFORD. Will the gentleman yield?

Mr. THOMSON of Illinois. Certainly.

Mr. STAFFORD. Take the supposititious case which the gentleman suggests. If there happened to be manufacturing concerns in that community, there would be no power for them if they wanted it. I am trying to protect the small producer rather than to have a monopoly.

Mr. THOMSON of Illinois. The gentleman proposes to take the case that I suppose, and then he does not take it. My case is where the only customer is the municipality. But take the case which the gentleman suggests, and in addition to the municipality there are other customers. In that case the section as originally drawn fits it exactly, and, in the discretion of the Secretary, there may be a provision that the company shall not be allowed to sell more than 50 per cent to one company or individual. Unless there is that discretionary power vested in the Secretary of the Interior, it is impossible to fit that kind of a proposition to these individual cases—in one instance to one sort of a case and in another instance to another sort of a case. In all those cases where there is only one possible consumer, such as a municipality in a Western State, the amendment proposed by the gentleman would defeat the object of the bill so far as giving the municipality power is concerned. In those cases where there are other consumers, the authority ought to be left in the bill so as to insure the small consumer getting the power.

Mr. STAFFORD. It would not defeat it as far as 50 per cent is concerned, and they would have the other 50 per cent to distribute to other manufacturing concerns in those localities.

Mr. THOMSON of Illinois. Mr. Chairman, the gentleman seems to be utterly unable to consider a supposititious case. In the case that I have indicated the other 50 per cent would have to go to waste, because it would be limited to 50 per cent to one consumer—the only consumer in the field.

In all cases where there are several consumers or applicants for the electricity generated, the Secretary should, and doubtless would, bring into action the authority given him under the wording of this section, as submitted to the House by the committee, to the end that no consumer would be shut out, but that every applicant for electricity would be assured of getting it. This section was drafted by the committee to prevent monopoly, and there can be no doubt that it would have that effect if enacted into law.

Mr. MANN. Mr. Chairman, I never have seen the time when some one could not make a very ingenious argument in favor of monopoly, but I am rather surprised that my friend from Illinois [Mr. THOMSON] should make an argument in favor of monopoly. Of course, there is only one consumer anywhere, if you start in with the theory that you are going to have only one consumer; but there is not a place in the United States anywhere where there is not more than one actual consumer of electric power. The bill provides that no more than 50 per cent of the power created shall be sold to one consumer unless the Secretary of the Interior, as a matter of favoritism, gives that

permission. I do not think the Secretary of the Interior ought to have the right to determine, as a matter of favoritism, that he will let any producing company sell more than 50 per cent of its production to one person.

The only way that you can have competition is by competition, and the only way you can have real control of the price is by some sort of competition. If the producing company sells 50 per cent of its power to one concern, it has competition. If it sells the entire 100 per cent to one concern, nobody will be asking to regulate the rates, no question will be raised about the rates, for the consumer of the power who has the monopoly of the power produced will not ask to have any regulation of the rates. They have agreed upon that, and the provision in the bill giving the Secretary of the Interior the power to regulate the charges absolutely falls, so far as any effect is concerned, when you let the producer sell all of the power to one consumer. It is nonsense to say that you will not have more than one consumer. The purpose of creating this power is to furnish it to consumers in the neighborhood. My friend and colleague, whom I greatly respect, suggests a supposititious case, where there is a municipal corporation that wants to buy all of the power. That is just it. We do not want it so fixed that even a municipal corporation can buy all of the power and charge what it pleases. The power ought to be created principally for the benefit of real consumers, people who are engaged in manufacturing as well as other businesses.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MANN. Yes.

Mr. THOMSON of Illinois. There are other provisions in the bill, are there not, that would regulate the charges that a municipality would make, and would insure their reasonableness?

Mr. MANN. There are not, and there can not be.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. RAKER. Is it the gentleman's view of the bill that if the Secretary of the Interior grants a right of way over a public land his fixing of conditions in the lease would override the State law where the public utilities commission fixes the price at which they must sell their output to the consumer?

Mr. MANN. I think it would, and the bill says so as it stands. I am not going to enter into a constitutional argument during the remainder of my five minutes on the question of whether when we grant a power on an Indian reservation, where our only right is the right over the reservation, and the line is extended across a straight line, under the terms of this bill we regulate the charges and cut out the State or whether the State regulates the charges. I hope that will be corrected in the bill before it passes, but it is in the bill now.

Mr. RAKER. Take the case I suggested. It is all within one State. The Secretary of the Interior gives a lease for certain lands. He fixes certain conditions. Unquestionably under this bill the State utilities commission would fix the charge that this corporation or individual will furnish its power to the consumer for, would it not?

Mr. MANN. Yes; but if there is only one consumer nobody will ask to have the charge fixed. That is the point I am making. If a producing company sells all of its power to one consumer, that is a matter of contract between the producing company and the consumer, and nobody calls it to the attention of the Interior Department. Nobody is interested in it, and the Interior Department, like other departments, seldom acts upon these matters until its attention has been called to them by other parties who are interested.

Mr. RAKER. That is true.

Mr. MANN. But if you have competition, then there are other people interested, and that is the reason, I think, there ought to be enforced competition. Therefore I favor the amendment. I do not believe this House ought to create a monopoly, as this would do.

Mr. FERRIS. Mr. Chairman, I do not think the question of monopoly plays such a rampant part as has been indicated here, and I personally do not think any part of the gentleman's amendment ought to be adopted. I think it ought not to be adopted for the good, sufficient, and sane reason offered by my colleague on the committee, the gentleman from Illinois [Mr. THOMSON]. Undoubtedly the Secretary ought to have the authority to keep the power company from selling all of the power to one concern, to the detriment of others, but at the same time the Secretary of the Interior ought to have the power to permit the power company to sell 55 per cent or 60 per cent or a hundred per cent to a concern, if there were no other demand for the power and the public interests required it. Suppose that in a given community 100,000 horsepower were generated at a given dam. Suppose a city or a municipality was the main market for that power, and that it would require 60 per cent of that power to light the city. Suppose 30 per cent only were required for carrying on irrigation and the necessities of the local community. Does anyone really think in all such cases Congress should be troubled with special bills. Such cases are entirely probable, such cases will surely arise, and the first thing they will be compelled to do is to run to Congress and secure legislation that ought to be included here.

Suppose the city needed, as I said, 55 per cent of the power generated at a given dam. Suppose there was no market at all for the rest of it. Congress would be confronted with a special bill authorizing the Secretary of the Interior to sell to that city, or rather, authorizing the power company to sell to that city 55 per cent of the power, while the rest is going to waste. I think if we want to add anything that would really affect monopoly you might incorporate in section 2 that the Secretary shall do so only when the public interest would be subserved thereby. I find that some such suggestion was made in the hearings by Mr. Pinchot, although he thought that 50 per cent was a good one. On page 140 of the hearings, if you have them before you, you will find the following:

Mr. PINCHOT. I have no definite suggestion to make, but I think it ought to be considered, because they are frequently in a position to discriminate between consumers, and often do, especially between large and small consumers—and often with good reason; sometimes, also, without good reason—and it might be practicable to make that clause read, "regulation and control of service and charges for service to consumers without unfair discrimination."

Now, there would be a reason for the incorporation of such an amendment as that, and that would undoubtedly take care of any suggestion, even the one the gentleman from Illinois [Mr. MANN] makes, and to put the Secretary in a position where he could not permit the power company to sell 51 or 55 per cent would be an unworkable proposition and would bring in a lot of special bills, and it would be a just criticism against the workability of the bill and really would not accomplish anything good for anybody.

Mr. MILLER. Will the gentleman yield for a question?

Mr. FERRIS. If the gentleman will permit me to read further from the hearings:

The CHAIRMAN. There is a little attempt to do that in line 20, you will observe, Mr. Pinchot, in the preceding section 2, inasmuch as we did limit it to not more than 50 per cent of the total output.

Mr. THOMSON. Will not the whole situation be comprehended in the wording, "regulation and control of service"?

Mr. PINCHOT. Yes; I think so. I merely wanted to bring the thought up. I am not clear that it ought to go in.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. FERRIS. I do.

Mr. JOHNSON of Washington. Do I understand that is by Mr. Pinchot?

Mr. FERRIS. It is.

Mr. JOHNSON of Washington. Is it Mr. Pinchot of Pennsylvania, or Long Island, N. Y., or Washington?

Mr. FERRIS. I think the gentleman perhaps knows better where Mr. Pinchot lives than I do.

Mr. JOHNSON of Washington. I simply want to say if he conserves electric energy as well as he conserved the forest reserves of the State of Washington, he will put us all in bondage for a thousand years without a wheel turning.

Mr. FERRIS. I know my good friend from Washington does not agree with the policy of Mr. Pinchot relative to the Forestry Service. This is not a question as to whether the Forestry Service should be maintained and kept going as Mr. Pinchot wants it to be, neither is it a question of destroying the forest reserves, as the gentleman wants to; but, on the contrary, it is a question of trying to develop the water power in the West. Let me say to the gentleman from Washington, so far as I am concerned, any odium that comes on Mr. Pinchot at his hands, or to any other man of any party who has given such careful, painstaking thought to this question, shall not deter me from carefully gathering information from him where it is helpful. Mr. Pinchot has given patriotic attention to this question. His views are generally pretty well received in this House.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to proceed for a minute in order to answer a question by the gentleman from Minnesota.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma? [After a pause.] The Chair hears none.

Mr. MILLER. As I understand, from provisions of the bill elsewhere than in this first paragraph, the Secretary of the Interior is to be clothed with power to make rules and regulations incident to the lease, sale, and so forth, of the power generated by these projects?

Mr. FERRIS. That is true; but he is given that power in the first section.

Mr. MILLER. If that be true, what additional power does he receive from the last part here, where it says he "may" do so and so?

Mr. FERRIS. I assume they are working under rules and regulations. I do not believe that is vital, but I will say that the irrigation people out in the West and one of the Senators from the West thought there ought to be a positive limitation against the selling of all of the power produced to one concern, and that was incorporated in the bill at their suggestion. If you force the Secretary to do an arbitrary, harsh thing, and if, as a matter of fact, the irrigationists needed 35 per cent of the power or the city or municipality needs 55 or 65 per cent, it would bring back on us a lot of special bills that this House is overridden with now. We of the committee thought we ought to make it emphatic that the Secretary should have a little discretion whether he should or should not allow the 50 per cent, or rather more than 50 per cent, to be sold to one concern. It is impossible to escape giving the administrative authority some discretion, some laxity; otherwise we have a bill that looks good, but is ponderous and not workable. We want the rights of the public carefully preserved, but we want a razor that will shave also.

The CHAIRMAN. The time of the gentleman has again expired. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and the Chairman announced the ayes seems to have it.

Upon a division (demanded by Mr. FERRIS) there were—ayes 17, noes 12.

So the amendment was agreed to.

Mr. MONDELL. Mr. Chairman, my amendment proposes to strike out all of section 2, after the word "conditions," in line 16, and I am quite sure that the gentleman on the other side not approving the amendment that has just been adopted will vote to strike out that part of the section. This discretion attempted to be lodged with the Secretary of the Interior would very likely be abused. What is there sacred about the division in half? If the company should not be allowed to sell over 50 per cent to one consumer, why should it be allowed to sell either 40 per cent or 35 per cent or 49 per cent or 47½ per cent to any one consumer? The fact is that under the laws of a number of States there are preferences in the matter of water diversion, and the highest preference is for the use of water for domestic and municipal purposes or for the development of power to be used for domestic and municipal purposes, and if a water right were granted purely for domestic or municipal purposes or for the development of power to be used by municipalities, the Secretary of the Interior clearly could not be given the right to say that the power should not be used for that purpose.

But if some one should desire to build a great plant in the mountains, far from any other present demand for water power, for the purpose of extracting nitrogen from the atmosphere, they could not do so under this provision unless they could get the Secretary of the Interior to let them use their own water power for the purposes for which they developed it.

Out yonder in the West we have a great deal of phosphate rock. and we hope to have water-power development for the purpose of manufacturing this rock for use as fertilizer. If the company or individual developing it could not use all of its water power for that purpose, they probably would never undertake the enterprise.

But the most objectionable part of this whole matter is that it proposes and lays down a rule of law under which it would preclude a public-service commission from compelling the sale of power to a number of users. You fix the sacred amount of 50 per cent and you have given the Secretary of the Interior authority beyond that amount, and by so doing you have fixed the right in the power company without regard to any powers of public-utility commissions. You give the corporation the right to sell at least 50 per cent to one consumer without regard to other demands in the community. One great objection to it is that we have not the power to do it. The other is that we ought not to do it if we had the power. These matters are entirely under the control of public-service commissions. They have the right not only to fix the rate but to make rules with regard to the utilization of the current, and yet we propose first to say that the commission shall have no authority up to 50 per cent, and beyond that the authority shall rest with the Secretary of the Interior down here, and the State public-utility commission shall have nothing to say about it.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has expired.

Mr. THOMSON of Illinois. Mr. Chairman, I know, at least so far as I am concerned, that the gentleman was incorrect in his first supposition, namely, that having voted against the amendment offered by the gentleman from Wisconsin [Mr. STAFFORD] we were now all prepared—those of us who opposed that amendment—to support his amendment. I believe the proposition involved in the amendment offered by the gentleman from Wisconsin was not a good thing. I believe that that which is involved in the amendment offered by the gentleman from Wyoming [Mr. MONDELL] is worse, for if that amendment were to prevail it would then certainly mean that a concern could develop a water-power site and sell all of its power to one consumer or not as it chose—as far as this bill is concerned at least—unless there might be some rule or regulation of a State commission, or something of that kind, that could reach the case. That might be true in some States and might not be true in other States. I believe there should be some proposition in this bill along the lines of this section. If it must be a mandatory one, such as provided by the amendment offered by the gentleman from Wisconsin, I would rather have it than to have nothing in there at all. It seems to me it would have been much better to have permitted the Secretary of the Interior to regulate this proposition as the facts of each case might demand. It seems to me there is too much fear being expressed here about lodging too much power in the hands of the Secretary of the Interior. Right along that line I would like to call the attention of the committee to some testimony that was given before our Committee on Public Lands, and to a remark made by Mr. Pinchot.

Mr. JOHNSON of Washington. Will the gentleman yield for a question?

Mr. THOMSON of Illinois. Yes.

Mr. JOHNSON of Washington. Is this Mr. Pinchot, of Pennsylvania, New York, or where?

Mr. THOMSON of Illinois. I decline to yield further. The gentleman knows very well to whom I am referring.

Mr. MURDOCK. Of the United States of America.

Mr. JOHNSON of Washington. Of the United States of America? I did not hear distinctly. Is it Amos or Gifford?

Mr. BRYAN. You will meet him over in the Senate after March 4.

The CHAIRMAN (Mr. HAY). The gentleman from Illinois declines to yield further.

Mr. JOHNSON of Washington. Mr. Chairman, I desire to make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Washington makes the point of order that there is no quorum present. The Chair will count. [After counting.] Sixty-nine gentlemen are present, not a quorum, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Aiken	Dixon	Howard	Metz
Ainey	Dooling	Hoxworth	Montague
Anthony	Driscoll	Hughes, Ga.	Moon
Aswell	Dunn	Hughes, W. Va.	Moore
Austin	Eagle	Hulings	Morgan, La.
Baker	Edwards	Igoe	Morin
Baltz	Elder	Johnson, S. C.	Mott
Barchfeld	Esch	Jones	Murray, Okla.
Bartholdt	Estopinal	Kahn	Neeley, Kans.
Bartlett	Fairchild	Keister	Neely, W. Va.
Beall, Tex.	Faison	Kennedy, R. I.	Nelson
Bell, Ga.	Fields	Kent	Oglesby
Borland	Finley	Key, Ohio	O'Leary
Broussard	Flood, Va.	Kinkead, N. J.	O'Shaunessy
Browne, Wis.	Fordney	Kirkpatrick	Padgett
Browning	Foster	Knowland, J. R.	Palmer
Brumbaugh	Francis	Konop	Parker
Bulkley	Frear	Kreider	Patton, Pa.
Burke, Pa.	Gard	Lafferty	Payne
Butler	Gardner	Langham	Peters
Byrnes, S. C.	George	Langley	Peterson
Callaway	Gerry	Lazaro	Phelan
Campbell	Gill	Lee, Ga.	Platt
Cantor	Gillett	L'Engle	Plumley
Carlin	Gittins	Lenroot	Porter
Carr	Glass	Lesher	Post
Casey	Godwin, N. C.	Levy	Powers
Chandler, N. Y.	Goeke	Lewis, Pa.	Ragsdale
Church	Goldfogle	Lindbergh	Rainey
Clark, Fla.	Graham, Ill.	Lindquist	Reilly, Conn.
Collier	Graham, Pa.	Linthicum	Riordan
Connolly, Iowa	Griest	McAndrews	Roberts, Mass.
Conry	Griffin	McClellan	Rothermel
Covington	Guernsey	McGillicuddy	Rubey
Cramton	Hamill	McGuire, Okla.	Rupley
Crisp	Hamilton, Mich.	McKenzie	Sabath
Crosser	Hamilton, N. Y.	Madden	Saunders
Dale	Hardwick	Mahan	Sherley
Danforth	Harris	Maher	Sherwood
Decker	Hayes	Manahan	Shreve
Dickinson	Henry	Martin	Sinnott
Dies	Hobson	Merritt	Slemp

Small	Stephens, Tex.	Vollmer	Whaley
Smith, Md.	Stringer	Walker	Whitacre
Smith, Saml. W.	Switzer	Wallin	White
Smith, N. Y.	Talbott, Md.	Walsh	Willis
Steenerson	Townsend	Walters	Winslow
Stephens, Miss.	Treadway	Watkins	Woodruff
Stephens, Nebr.	Underhill	Weaver	

Thereupon the committee rose; and the Speaker having resumed the chair, Mr. HAY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (H. R. 16673) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes, and finding itself without a quorum, he had caused the roll to be called, whereupon 236 Members answered to their names, and he presented a list of absentees for printing in the RECORD and Journal.

The SPEAKER. A quorum is present. The committee will resume its sitting.

The committee resumed its session.

The CHAIRMAN. The gentleman from Illinois [Mr. THOMSON] is recognized.

Mr. THOMSON of Illinois. Mr. Chairman, when my friend from Washington [Mr. JOHNSON] made the point of no quorum I was about to quote a remark made by Mr. Pinchot in the hearings on this bill had before the Committee on the Public Lands. I presume my friend from Washington felt that the views of Mr. Pinchot on a subject of this kind were of such importance that they should be heard not only by him and others in the House at that time but also by as many as could be brought into the House by a roll call, and therefore he raised the point of no quorum.

Mr. Chairman, the remark that I wished to quote referred to the question of giving power to an executive officer. A great deal has been said in the debate back and forth upon the amendments to this bill to the effect that we are giving the Secretary of the Interior too much power. On that question Mr. Pinchot says:

> You can never give an executive officer authority to do good work without giving him at the same time enough power to do bad work.

If the authority that we propose to give to an executive official is going to put enough power in his hands to make it possible to do bad work, I think that fact in and of itself is no argument that we should not give him that authority where it is essential that he should have it if he is going to be put in a position where he can do good work; and I think, with reference to the subject matter of section 2, to which the pending amendment relates, that it is essential to give the authority which that section purported to give the Secretary of the Interior in its original form.

Now, the amendment pending, offered by the gentleman from Wyoming [Mr. MONDELL], would strike out of section 2 everything after the word "conditions," in line 16, page 3; and, if you do that, it simply means that, so far as Federal regulation is concerned, a company that develops a water-power site and sells power will have the right and authority to sell all of the power which it generates to one consumer, and it should not have the opportunity of doing anything of that sort, except in proper cases, where it will result in no harm to any other consumer or applicant for the electricity.

There may be instances where it would be perfectly proper for the company to sell all the power which it generates to one consumer. There may also be instances where the lessee should have no such right, in spite of what my colleague from Illinois [Mr. MANN] says. And, by the way, I am sorry that my colleague stated that I was speaking for monopoly. I was not, and I am sure that he does not believe that I was. I think what he meant to say was that the language I was contending for in section 2, and which I have alleged would operate against monopoly, would, in his judgment, have the opposite effect and operate for monopoly. It is simply a difference in the views we entertain as to the effect of the language. My contention is that it would operate against monopoly.

The amendment which has been adopted, and which was offered by the gentleman from Wisconsin [Mr. STAFFORD] makes it mandatory that in every lease issued under this bill there shall be a provision inserted to the effect that the lessee shall at no time contract for the delivery to any one consumer of electrical energy in excess of 50 per cent of the total output.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. THOMSON of Illinois. Mr. Chairman, I ask unanimous consent to proceed for three minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. THOMSON] asks unanimous consent to proceed for three minutes. Is there objection?

There was no objection.

Mr. THOMSON of Illinois. Now, that amendment, which was suggested by the gentleman from Wisconsin [Mr. STAFFORD] and which has been adopted, will simply mean this: Where there is a municipality in the vicinity of a water-power site that wants to avail itself of the power, and where there are, let us say, other possible consumers, consisting of different manufacturing concerns, and where the municipality would like to get 75 per cent of the power and could use that much, and where these four manufacturing concerns only wish to apply for 5 per cent each, it would mean that, of the 100 per cent possible in that water-power site, 50 per cent will go to the municipality, because under the bill, as amended by the amendment of the gentleman from Wisconsin, it can get no more, and 5 per cent will go to each of the four manufacturing concerns and the other 30 per cent will go to waste; and if the company develops that power to its capacity, it will simply mean that it will sell only 70 per cent and throw away the other 30 per cent.

Mr. SMITH of Minnesota. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Minnesota?

Mr. THOMSON of Illinois. Yes.

Mr. SMITH of Minnesota. I notice that in section 2 of the bill the amount of power to be sold to one concern is limited to 50 per cent, to be generated from a single plant?

Mr. THOMSON of Illinois. Yes.

Mr. SMITH of Minnesota. I notice in section 3 that provision is made for the physical combination of different plants.

Mr. THOMSON of Illinois. Yes.

Mr. SMITH of Minnesota. When you combine several plants, how are you to tell whether you sell more than 50 per cent from any particular plant?

Mr. THOMSON of Illinois. You can not; but the provision of the section to which the gentleman calls attention, for the tying in of different plants, is a purely temporary proposition, and is designed to take care of emergencies, where one plant is broken down, either in whole or in part, and where, to serve the people whom it is serving, it must have help from some plant that is near by, and must have facilities for tying in for the time being.

Mr. SMITH of Minnesota. My understanding of the theory of permitting plants to combine is to permit them to render assistance to each other all the time, so that they could take care of different classes of patrons more economically than they could if they were compelled to remain separate.

Mr. THOMSON of Illinois. My understanding of the provisions is not the same as that of the gentleman from Minnesota. I do not believe that is the intention or the effect of the section to which he calls attention. I trust the amendment which has been offered by the gentleman from Wyoming [Mr. MONDELL] will be voted down. If it is not, any lessee, under the bill, will have the right at any time to sell all of its power, or 100 per cent of its lighting facilities to some one consumer, to the exclusion of any other applicant who may wish for power or light, or apply for it, which, I think, ought not to be.

Mr. HUMPHREY of Washington. Mr. Chairman, I move to strike out the last word. I listened with a great deal of pleasure to the quotation made by the gentleman from Illinois [Mr. THOMSON] from Mr. Gifford Pinchot, and the plea he was making that you have to give these gentlemen power to do evil in order to give them power to do good. I was wondering what was the matter with that distinguished gentleman, Mr. Pinchot, when he was at the head of the Forestry Bureau. I find that Mr. Gifford Pinchot was appointed June 21, 1898, Chief of the Bureau of Forestry, Department of the Interior, and from the time that he accepted that position and became the recognized authority upon forestry in this country until the time he went out of power after President Taft was elected the railroads of this country stole over 2,000,000 acres of the public domain; and I challenge any man upon either side of this House to point to a single word or a single sentence that Gifford Pinchot ever uttered in the way of protest against that steal. My distinguished friend from Kansas [Mr. MURDOCK] stood upon the floor of this House a few months ago and denounced that transaction of the Santa Fe Railroad and of the Northern Pacific Railroad as a steal and a public outrage; yet when it all occurred Gifford Pinchot was at the head of the Forest Service. Why did he not protest? When the Santa Fe Railroad exchanged 1,200,000 acres of land in the forest reserves in Arizona, worth by their own estimate from 15 to 25 cents an acre, and received an equal number of acres, some of it the best-timbered land in the United States to-day, worth $200 an acre, where was Gifford the Good? Where was Pinchot, that he did not see these steals and protest against them? They

have attempted to excuse him on the ground that he did not have authority. Did he have too much authority then or not enough?

Mr. THOMSON of Illinois. Not enough.

Mr. HUMPHREY of Washington. Very well. Then they moved him up and gave him more authority, after they transferred that bureau over to the Agricultural Department. They transferred it over to the Agricultural Department in 1905. They increased the power of the distinguished Mr. Pinchot. Then what occurred? Then he no longer kept silent, but actively assisted the railroads to secure the timbered lands of the United States. The Northern Pacific Railroad out in Montana had 240,000 acres of practically worthless land; it was included in a forest reserve, with Mr. Pinchot's help, and with his assistance that worthless land was exchanged for an equal number of acres, some of it the best timbered land yet remaining on the public domain. Some of this land was in my own State. Did he not have power enough then? How much more power do you want to give these bureau chiefs? He did not have power enough to open his mouth and tell the public of these gigantic frauds. Why did he not protest? I am getting a little bit weary of constantly parading this great patriot here before this House as somebody whose advice is to be followed above all others upon any subject under the sun, at least until some friend of his can stand upon the floor of this House and explain his transactions. Nobody denies these steals. Everybody in the United States knows that this was a fraud upon the Government, the worst in our history. Nobody will deny that during the time that Mr. Pinchot was at the head of the Forestry Service more of the forest land was stolen in this country by the railroads than in all the rest of the years in our history combined. Now let some man stand up here and put his finger upon some protest that Gifford Pinchot made against that steal by the railroads. It was his duty to speak. He was in office. He kept silent; and a man who will not speak when it is his duty to speak is just as guilty as if he helped to assist in the transaction. During the time that Mr. Pinchot was connected with the Forest Service, when he was the one man that the public was lead to believe was protecting the forests upon the public domain, the railroads practically stole more than 2,000,000 acres, without one word of protest from Mr. Pinchot, who then, as now, posed as the special, self-appointed guardian of the people. Why did he keep silent? Other officials protested vigorously. Why did he say nothing? Having kept silent then, when an official, why does he have so much to say now, when a private citizen?

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to close debate on this amendment at the expiration of 7 minutes, 5 minutes of which will go to the gentleman from Washington [Mr. BRYAN].

Mr. JOHNSON of Washington. I should like five minutes.

The CHAIRMAN. The pending amendment is to strike out the last word.

Mr. FERRIS. I take it that that is withdrawn, and the real amendment is the amendment of the gentleman from Wyoming [Mr. MONDELL]. On that I ask unanimous consent to close debate in 20 minutes, 5 minutes of which will be controlled by the gentleman from Washington [Mr. BRYAN], 5 minutes by the gentleman from Washington [Mr. JOHNSON]——

Mr. MILLER. Mr. Chairman, I intended to offer the exact amendment that the gentleman from Wyoming [Mr. MONDELL] offered, and upon that I desire to address myself.

Mr. MONDELL. The gentleman need not reserve any time for me. I do not desire any time. [Applause.]

Mr. MILLER. We might as well discuss these things here now.

Mr. FERRIS. How much time does the gentleman require?

Mr. MILLER. I presume I shall need 15 minutes.

Mr. FERRIS. I ask unanimous consent to close debate on this amendment and all amendments in 30 minutes. It has been debated an hour already.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to close debate on the section and all amendments thereto in 30 minutes. Is there objection?

There was no objection.

Mr. BRYAN. Mr. Chairman, nearly an hour ago, when the name of Gifford Pinchot was mentioned, my colleague from Washington, Mr. JOHNSON, gagged, and then he got up and asked a question. He did that twice; then he made the point of no quorum. The name of Mr. Pinchot seemed in some way to gag the gentleman. A few minutes after the roll call my other colleague from Washington, Mr. HUMPHREY, arose and let it be known that the name of Pinchot had gagged him also.

Mr. Pinchot or any other public man in this country who has been associated with the timber and the Forestry Service does not need defense when the gentleman from Washington, Mr. HUMPHREY, is his accuser. The gentleman from Washington, Mr. HUMPHREY, out on the stump in the State of Washington and in this House at every opportunity has defended the Ballinger plan of handling the public domain and has praised Secretary Ballinger at every opportunity. The gentleman has been a Member of this House for 12 years, while all these steals which he talks about were carried on. He ought to be the last man to talk about the particular individual who stopped him and his colleagues, who stopped these timber looters, who were among the very men in the State of Washington who were keeping my colleague here in this House by backing him in political meetings and nominating him in Republican conventions and indorsing him at every opportunity they ever had to indorse him.

Here is what my colleague, Mr. HUMPHREY, in 1910 thought about Mr. Ballinger and his land policy, who, as Secretary of the Interior, found it entirely impossible to put into operation his ideas on these questions because of the storm of public opinion against those ideas and policies:

> I believe in the integrity and the ability and the grim courage of Secretary Richard A. Ballinger. I believe he is right. I believe he is doing his duty. I believe he is fighting the battle of the great West. He is an honor to his State and to his country.

Is it any wonder he does not believe in Gifford Pinchot? Nobody ever accused Mr. Pinchot of believing in Secretary Ballinger. However, Mr. Pinchot has never assailed Mr. Ballinger's integrity, nor do I. It is unfortunate and unjust for anyone to do that. I say that a personal sense of his own dereliction ought to make him the last man to censure the men who stopped those who would loot the public domain. He did not try to stop it. A short time ago, when he was discussing this matter, I interrogated him as to whether he attempted to do anything to interfere with it by introducing any bill, but his voice was then and has been all along as silent as the grave. But now, to-day, "Hark, from the tomb there comes a doleful sound," and we hear him railing and casting out aspersions against the man who interfered with the very things that made the "good old days" of the State of Washington possible. Those things were done and the public domain was looted, as the gentleman knows, through legislative enactment. In pretty nearly every case laws passed through this House, voted for by Members from the State of Washington, sent here by the Republican Party, made possible great thefts that were committed. The gentleman from Washington, Mr. HUMPHREY, has never introduced a bill to stop it.

And so my colleague from the timber district of southwest Washington, Mr. JOHNSON, rises on the floor and his heart aches, simply aches, when he thinks of the great Indian reservation, the Quinaielt, and sees a lot of timber that has not got a Weyerhaeuser fence around it. [Laughter.] When he walks along and in his imagination sees a Weyerhaeuser fence he is happy, but when he comes to the end of the lane and casts his eyes through that splendid virgin timber of the Northwest, the most valuable in this country, held by the Government of the United States, held by the public who live in the State of Washington, then is the time that he sets up a howl, and then is the time he begins to filibuster. When these matters are forced upon his attention you hear him railing and talking of the men who have caused the reservations to be made.

The statement that Mr. Pinchot is responsible for the lieu-land selections by the railroads and the timber barons or the robbing of the public domain are as false as any statement that could possibly emanate from any gentleman on the floor of this House. It is well known that Gifford Pinchot is specially desirous of preserving the public domain, and has been called a dreamer, an eccentric, and all that kind of a thing by his enemies. Everybody knows that he has not participated in the lootings, but that he has been the barrier in the way of these men when they wanted to do the looting.

My colleague knows as well as he knows his name that he is associated politically and in every way with the very men that got that timber. He knows very well that he has never fought them, and he knows that he would not fight them now if there was any chance of their getting any more timber. [Laughter.] It is absurd and ridiculous for him to try to make capital in attacking the man who was the very foundation and source of the influence and legislation that prevented and stopped the lootings that he tries to make capital of.

Now, the gentleman from Washington, Mr. JOHNSON, came down here as editor and manager of the Home Defender, a paper that raises all kinds of war whoops about saving the flag. [Laughter and applause.] He says now he has parted with that paper.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. BRYAN. Mr. Chairman, I should like three or five minutes more.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. BRYAN. Mr. Chairman and gentlemen, I am willing to give way to a crook, I am willing to give way to a man who is wrong, essentially wrong, and does not deny it, does not claim to be anything else, who has no subterfuge. I do not want it understood that I am applying that term to the gentleman from Washington; but I do despise a faker, a make-believe, a sham, and I do apply that to the gentleman from Washington, Mr. HUMPHREY, because his speech here is an absolute fake. Every time the subject comes up these gentlemen come in here, bitter foes of the procedure that is going on. Now, it is very strange to me that men that are known as friends of forestry do not raise any complaint against Mr. Pinchot.

These gentlemen started a legislative program against the Forest Service. The gentleman from Washington, Mr. HUMPHREY, when the Agricultural bill was up, moved to strike out the Chugach National Forest. He had already submitted a resolution for an investigation of the Forest Service, and it had gone to the State of Washington and in certain standpat papers had been widely advertised. They said he had fired "his second gun in his comprehensive attack against the Forest Service." Tremendous advertising was given in all the old Republican Ballinger papers out there. What was the result? When they reached the final vote on his motion for the elimination of this reserve, the one most criticized of all which they planned to get rid of, because it had the most valuable coal within it, he got three votes—one was the gentleman from Pennsylvania, Mr. MOORE, and the other was his colleague, Mr. JOHNSON. Three votes! That was his following, his indorsement. The gentleman from South Carolina [Mr. LEVER] insisted on a division, so as to demonstrate how many there were who would sustain or support him. That was the comprehensive attack; that was the big thing that the papers out there had advertised. He has not made another attempt to get a vote to this day.

Now, I want to call attention of the Members of the House to the fact that the remarks of my colleague will probably be flashed over the wires to the standpat papers in the State of Washington, and it will be said that Mr. HUMPHREY just chastised Mr. Pinchot to a turn on this floor, and very likely attempts will be made to make the impression that it was all done with the approval of the House. But when it comes to votes, they will get no indorsement of their propositions. I am convinced that my suggestion that this is downright faking is true and that the Members of this House believe it. [Laughter and applause.] My colleague, Mr. JOHNSON, came down here obsessed with the idea that the flag was about to be destroyed, or something of that kind.

He founded the Home Defender. He now says that he has given it away, but it is still run by the Home Defender Co., founded by him, and I understand the same agents of the gentleman are involved in the paper now as were when he brought it here originally; and if I am wrong in that I am subject to correction. Here is one of the things published in that paper in April, 1914:

> The fact is that neither I nor my associates believe in labor unions as they are generally conducted. They profit at the expense of the unorganized; they blackmail legislators and create demagogues in and out of office; they help the lazy and inefficient at the expense of the efficient and industrious, etc. But our serious objection is to their lawlessness and their attempt to raise themselves above the law and law-abiding citizens.

My colleague, Mr. HUMPHREY, condemns the Secretary of State for his blundering stupidity, and the inane President, and all that kind of thing; and as he does that, so my colleague, Mr. JOHNSON, condemns the public men. He railed about the Vice President of the United States, he railed about Jane Addams, and he railed about Secretary Bryan, and associated them all together with Bill Haywood, the I. W. W. leader.

What are we to conclude about this? Are you gentlemen going to conclude that the people of the State of Washington are in accord with that kind of ideas and those suggestions? I say they are not. Gifford Pinchot went out there recently, and he was announced to be at the Commercial Club. I was there as one of the members of the audience, and I testify to the Members of this House that the people could not get in to hear him. He had another meeting at another place, and that was crowded; and when MILES POINDEXTER ran for the United States Senate, having fought Mr. Ballinger and his ideas, and having gone to Alaska with Gifford Pinchot and associated with him in the work he was doing, MILES POINDEXTER, although he lived in the wrong part of the State at that time, geographically, nevertheless was elected by a tremendous majority, carrying all of the State except one county, as I remember it.

When Mr. Roosevelt came to ask for a vindication of his policies and ideas he won by 50,000 votes over Mr. Taft and some 20,000 votes over Mr. Wilson. So I say to the Members of this House, you are not to be misled by the fact that two of my colleagues continually hound conservation, and they do it in the meanest way in the world. The worst kind of a lie is half a lie, and when you put a half truth in it you make it a worse kind of a falsehood than it would be if it were all false. Now, then, in their attacks on the forestry conservation they say, "We believe in conservation, we believe in conservation, but we hate the Pinchot brand," and that is where they fake and practice make-believe on the floor of this House. Their attacks are inconsistent and are entirely unworthy of consideration. They do not believe what they say themselves.

Under my leave to print in the RECORD I insert the following, being some more of the article I read from in debate, giving the mission of this Home Defender, founded by my colleague, Mr. JOHNSON, and known by all who know Mr. JOHNSON very well to be the very apple of his eye. He loves the paper and is devoted to its mission:

> However, at the present time we conceive it is not a part of our propaganda to fight labor unions or unionism as such.
>
> Below them, in the lowest or next to the lowest strata of our society, is developing a spirit far more dangerous to our institutions, to our form of government, and to our industries, than the labor unions. We refer to the revolutionary socialists typified in the organization known as the I. W. W. These recruits from below, criminals who think to masquerade as workingmen without employment, and, retaining their vicious tendencies, to find opportunities to exploit them under cover of an organization and to commit crimes en masse; or from above—labor unions—the discontented, and generally worthless, who fall from the ranks.
>
> Between these revolutionary socialists and the general public are the labor unions.
>
> To destroy them would merely bring society face to face with the revolutionary socialists, whose ranks would be immensely swelled by accessions from the disrupted unions.
>
> As the especial mission of the Home Defender is to oppose revolutionary socialism, and as we seek support on that basis, we feel that we should devote our efforts primarily to that end.
>
> We have no objections to others fighting the labor unions from top to bottom and on every proposition—but that is not our job as we see it. No one gives us any support on that ground, and we feel we would be biting off considerably more than we could conveniently masticate if we attempted to buck the labor unions single handed.
>
> The Home Defender Co. has no affiliations or relations with employers or associations of employers which would guarantee us support in such an undertaking. On the contrary, should we attack the labor unions as such we would merely invite much trouble for us personally and be left to foot the bills.
>
> We are none of us men of means and have no factories to be burned or other property to be destroyed; the Home Defender is not a money-making institution, and probably never will be. Therefore, when actuated by patriotism and a desire to do good we give our time freely and make up the deficit from our private funds we feel that we are doing all that could be expected without departing from our path to attack the labor unions.
>
> We have neither the time nor the inclination nor the sinews of war for such a task.
>
> On the other hand, we have no fear of them when they are in the wrong. When they are captured and captained by the revolutionary socialists, when they violate the law, when they commit violence, or when they seek immunity from the laws which apply to other classes, we shall not hesitate to condemn them unsparingly.
>
> Personally, while not denying the right of workingmen to organize any more than employers or professional men, we are in favor of the "open shop," and if we ever acquire proper support we would like to make the Home Defender a great "open-shop" newspaper. Published at the National Capital, it would be very effective.

This article is signed by Mr. JOHNSON's close personal friend and original associate in this Washington enterprise, Mr. William Wolff Smith, secretary-treasurer of the Home Defender Co.

Under my leave to print I am inserting the following article taken from the Home Defender of April, 1914:

A LOSING FIGHT IN COLORADO—UNITED MINE WORKERS HAVE LOST OUT AND ARE HEADED STRAIGHT FOR THE ROCKS.

That outlaw schooner "United Mine Workers" is tossing about in deep water and headed straight for the rocks, says the Trinidad (Colo.) Chronicle-News. The melancholy days have come for the strikers in Colorado. The prospect of a settlement is more remote than ever. It is the beginning of the end of the battle for recognition.

The coal miners of Colorado have been idle since September 23. The courage of the once boastful leaders is waning. The rank and file of the army of strikers are growing dissatisfied. They are realizing the hopelessness of the struggle. They see no chance for victory. In other words, it is "all off" with the "cause."

The miners of the East are getting tired of supporting the hopeless industrial conflict in district No. 15. They have been taxed and assessed to that point where they feel they can no longer stand it. There is strong talk now of voting against a proposition to "dig up" heavier assessments which are a drain on the purses of the miners in these other fields.

This dissatisfaction and unrest has been growing for some time. The international organization has apparently reached that point where it

can not much longer finance the strike, and the appeals for aid are not meeting with favorable response.

The men on strike are discouraged. They are refusing now to swallow the glowing promises of union leaders who have not made good in their previous predictions. Day by day they see the coal coming out of the mines and know that their places have been taken by men who will work and who are not under the thumb of agitators and would-be leaders. They realize the outlook for success is not promising. A great majority of them would go back to work within 24 hours if they were not afraid of the "black hand" that is held over them. They would sooner be a live striker on $3 a week than lie on a slab in the morgue.

The high officials of the United Mine Workers of America are convinced that the organization has conducted a losing fight in Colorado. They know it, but will not admit it, and are whistling to keep up their courage. Vice President Frank J. Hayes knows it and discreetly keeps away from the strike zone. The men on strike know it. The people who view conditions by and large know it. The only thing left is for the union leaders to howl and scream and vilify and condemn officers of the law, pass resolutions, and send telegrams to Congressmen, and, as Gov. Ammons has said, "lie and misrepresent facts."

Under my leave to print I extend the following articles from the Home Defender of June, 1914:

WILL THE NATIONAL HOUSE OF REPRESENTATIVES YIELD TO ORGANIZED LABOR?—ORGANIZED LABOR'S SCORNFUL DEMANDS ON LEGISLATORS—SEEKS EXCLUSIVE PRIVILEGES AT HANDS OF CONGRESS THAT WOULD LEGALIZE THE "PEACEFUL PICKETING" OF THE COLORADO COAL FIELDS—EVERY MAN'S HOME HIS CASTLE WILL NO LONGER BE TRUE WHEN LABOR UNIONS ARE ABOVE THE LAW—WHAT THE UNIONS SEEK IS CLEARLY SET FORTH IN GOMPERS'S TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY—HE SEEKS TO PUT UNORGANIZED LABOR UNDER THE BAN.

Much of the time of every Congress is taken up with bills and discussions on questions relating to labor, and the time of some of the committees is largely occupied in hearing complaints made by organized labor against existing laws, and in listening to their demands that organized labor shall be taken out of the category of those called upon to obey laws as other citizens are called upon to do. At this time there is pending what is called the "omnibus trust bill." It is a bill attempting to treat with every phase of the trust problem. Eight or nine sections are called the labor sections, as they deal with some phase of the labor situation now under the various statutes.

The public generally are especially interested in the several sections intended to limit the power of courts to issue injunctions, but the limitation touches only cases wherein organized labor has an interest, so the limitations may well be said to concern labor only. Injunctive proceedings have been called into activity in labor disputes when some protection was necessary to prevent injury to the property or property rights of the applicant. Property rights include the right to do business freely and without intimidation, and the right of an individual to labor when and where and under such conditions as he might determine.

The pending bill attempts to limit the right of courts to thus come to the relief of those whose property or property rights are endangered except in certain cases. It says that "no restraining order or injunction shall prohibit any person from terminating any relation of employment, or from ceasing to perform any work, or from recommending or persuading others by peaceful means so to do, or from attending at or near a house or place where any person resides or works or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to quit work, or from ceasing to patronize or to employ any party to such dispute."

Under this vicious section a man's home will no longer be his castle. Before it and around it may gather strikers in any number, under the pretense of seeking information, and the owner or occupant of the house can get no relief, unless he resorts to the shotgun process. Another crowd may gather near his store or other place of business, and advise, urge, and, if needed, threaten those who want to buy or do business; but as long as they do not commit any act of violence they can not be interfered with by the courts. In short, the business man, the employer, the man who wants to work, is denied all relief, but the man who belongs to a labor union can molest, interfere with the rights of everybody else unchecked.

Practically, the bill puts all unorganized labor under the ban. It is not intended to act in the interest of labor as a whole, only such labor as belongs to and is governed by the rules of some union. The Sherman law was aimed at all organizations or combinations acting any way in restraint of trade. It does not single out any branch of business and make it subject to the provisions of the law, but puts all combinations that act in restraint of trade on one common footing. The Clayton bill, now pending, attempts to provide that organized labor may act in restraint of trade to its heart's content and yet be subject to no law.

In the same issue appeared the following:

DEMOCRATS BID FOR LABOR VOTE—AT LAST MOMENT THEY ARRANGE A COMPROMISE WITH GOMPERS AND MORRISON UNDER WHICH THEY HOPE TO HOLD THE VOTE OF ORGANIZED LABOR WITHOUT VOTING AWAY ENOUGH OF THE RIGHTS OF UNORGANIZED LABOR TO LOSE THEM THEIR SEATS—HOW WILL IT WORK?

As this issue of the Home Defender is going to press information comes that the Democrats in the House have agreed with Messrs. Gompers and Morrison on a clause in the antitrust act, which is drawn to give the labor unions exemption from the laws without boldly saying as much. The compromise will suit no one, for if it confers immunity on the labor leaders for dynamiting, insurrection, and anarchy, or the plotting of the same, it will be opposed by every right-minded man; while if it fails to confer such immunity it will mean nothing to the agitators who have sought such exemption. Nothing in the law now prevents such organizations from "carrying out the legitimate objects thereof." What they are after is permission to carry out "illegitimate" objects. However, the compromise is as follows:

"That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, and such organizations, orders, or associations, or the members thereof, shall not be construed or held to be illegal combinations in restraint of trade under the antitrust laws."

In further extension of my remarks I insert the headlines which preceded an article in the April issue of the Home Defender, and the gentleman from Washington, Mr. JOHNSON, asserts that these are the people he really founded this paper to get at and to defend the homes of the country from them. Here are the headlines:

I. W. W. raids on churches and anarchistic demonstration in New York originated in the Ferrer School of Anarchy, with the approval of Haywood and Goldman—Revolutionary leaders have seized the opportunity to dramatize discontent with the hope of repeating the Haymarket riots—Mayor Mitchel's passiveness condemned by one of his own men.

Now, I want further to insert a portion of a speech made by my colleague in Congress on April 28, 1913, in which he mentions Vice President Marshall, "Old Hoss" Wayland, Victor Berger, Theodore Roosevelt, Bill Haywood, "the food poisoner" Ettor, and Jane Addams as coworkers, but as, in reality, retarding brotherhood.

I am inserting these articles just to show the membership of this House and the readers of the RECORD that the fact of my colleague gagging when the name of Pinchot is mentioned does not necessarily prove anything.

I hope that the United States will soon return to a tariff wall—a reasonable, rational, expert tariff wall—high enough to guarantee protection, and then I hope that we will reenforce that wall with another protective wall against undesirable immigration.

With the first wall you protect the man who invests his capital, makes the goods, or grows the product, and provides the American standard of living. With the other wall, you protect the man who is on the job—you take care of the foreigners who are here, and you cut down the influx of undesirables from the south of Europe, against whom we have "conserved" all that we used to offer freely to the people from the north of Europe.

Why are we surprised that they begin to hate this country before they can find any reason to love it? Is it any wonder that these serf-born hordes quickly become the dupes and disciples of such vicious agitators as Bill Haywood and his platform of the Industrial Workers of the World—"no concern as to questions of right and wrong; no terms with employers; destruction and bloody revolution"? It will take not only our tariff wall and an immigration wall, but a penitentiary wall to stop this kind of treason.

Why are we surprised? How can we be surprised at the red-flag movement when Vice President Marshall, in an address at New York, undertakes to warn the rich, and only succeeds in striking a note that gives the socialists more sympathy than they have had since their prophet "Old Hoss" Wayland, of the Appeal to Reason, ran afoul of the Mann law and committed suicide, and more good cheer than they ever enjoyed since their disciple, Victor Berger, left Congress and expatriated himself in their eyes by purchasing an upholstered mahogany-finished motor boat.

Roosevelt did not stand at Armageddon. He stood at Chicago and preached near-socialism, almost revolution, contempt for law, and doctrines that lead to destruction.

Haywood waves the red flag at Paterson, N. J., and preaches anarchy and sabotage. Ettor advises the striking waiters to poison the food of the rich. Jane Addams wants pensions for everybody. All are preaching the universal brotherhood of man. All have different motives. In trying to save the country they are doing much to destroy it. They are teaching employees to actually hate those who employ them. They seem to have forgotten that the universal brotherhood must include the 900,000,000 people of China, Japan, and India. In this great progressive wave, will these seething hordes come up to our level or will our 100,000,000 drop to theirs, and when?

My friend, Mr. SISSON, of Mississippi, sees the peril, as his address of this forenoon clearly shows. He speaks his convictions, but I dare, in my weak and humble way, to warn not only the gentleman from Mississippi, but the honorable the Vice President of the United States and the honorable the President of the United States—who by coming on this floor has expressed a desire to take part in this debate—that every time an industry of this country is slaughtered or an American citizen is made to compete with a 9-cent Japanese, that sad day is hastened, for, my friends, the great international brotherhood with its international red flag, with its fatherless and churchless children, with its collectivism and its 57 varieties of impossible dreams, will drag us down ten thousand degrees before it can lift us one tittle. For your attention, I thank you, gentlemen. [Loud applause.]

STATEMENT AMENDED.

Mr. JOHNSON of Washington. Mr. Speaker, I desire to amend the statement of mine in the RECORD of yesterday's proceedings, in the closing of the tariff debate. In the crush attendant on the closing of the tariff debate last night I seem to have permitted a lapsus linguæ, or more strictly speaking a "lapsus pencillbus." I spoke of the noble and generous Jane Addams as desiring pensions for all persons. I meant, instead, to refer to the Member from Pennsylvania [Mr. KELLY], who only yesterday introduced a bill to provide old-age pensions of $10 each for all persons over 65 years.

It was not my desire to criticize either Miss Addams or the gentleman from Pennsylvania [Mr. KELLY], but to show that they, in connection with Vice President MARSHALL; former President Roosevelt; the Industrial Workers of the World leader, Bill Haywood; and the food poisoner, Ettor, are all striving—each with different motives—for the great brotherhood of man, but each one setting back this movement thousands of degrees.

The SPEAKER. Without objection, the correction will be made.

There was no objection.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. JOHNSON of Washington. Mr. Chairman, a few moments ago when the attendance in the Committee of the Whole, which is considering a bill that is most vital in its importance, and concerning which there is much doubt as to what it will produce for the 11 Western States, was under consideration

by paragraphs, the attendance having run down to about 20, I made the point of order of no quorum. As is almost invariably the case when conservationists get together, efforts were made to back up this or that statement by reading from the hearing certain statements of Mr. Gifford Pinchot, whose residence, I believe, is now claimed to be in the State of Pennsylvania. Out West we have had a great deal of hardship and suffering as a result of statements and theories and dream-book observations by Mr. Pinchot. A few days ago reference was made to a conservation congress held in the city of Washington, and as reference was made to that and some quotations from Mr. Pinchot given, I could not help but think that the situation in that conservation congress last winter was the same as in the Halls of Congress here to-day. In that conservation congress, when they were undertaking to pass some water-power resolutions—which, by the way, did not pass—there were present as delegates from the District of Columbia 162 men, from the State of Washington 10 men, from Oregon 8 men, from New Jersey 60 or 70 men, and from New York 120, or something like that. They adopted resolutions telling what future generations shall do with what had been given to our Western States. Almost the same thing is happening here in the discussion of these four so-called conservation bills, for as soon as you get through with this one you will have the ore-leasing bill. I am absolutely astonished and surprised at the attitude of some western Representatives—some of whom were pioneers in those Western States and have helped to build up those States with what was given them in their enabling acts, and under which they urged and invited people to go west and settle with them.

But, Mr. Chairman, since so many are so prone to quote at every opportunity the words of that "great god bud," Gifford Pinchot, I want in opposition to read a few lines from resolutions adopted unanimously by the Third Annual Conference of Western Governors, held in the city of Denver on April 7, 8, 9, 10, and 11 of this year, as follows:

WHAT THE WEST WANTS.

[Resolutions adopted unanimously by the Third Annual Conference of Western Governors held in Denver, Colo., April 7 to 11, 1914.]

We, the members of the western governors' conference, in convention assembled at Denver, Colo., April 7, 8, 9, 10, and 11, 1914, do hereby adopt the following resolutions:

CONSERVATION.

We believe in conservation—in sane conservation. We believe that the All-Wise Creator placed the vast resources of this Nation here for the use and benefit of all the people—generations past, present, and future—and while we believe due consideration and protection should be given to the rights of those who come hereafter, we insist that the people of this day and age should be given every reasonable opportunity to develop our wonderful resources and put them to a beneficial use.

STATE CONTROL.

That it is the duty of each and every State to adopt such laws as will make for true conservation of our resources, prevent monopoly, and render the greatest good to the greatest number; and that as rapidly as the States prepare themselves to carry out such a policy of conservation the Federal Government should withdraw its supervision and turn the work over to the States.

Does anyone contend for a moment that any of these so-called conservation bills contemplate at any time turning any of these resources back to our Western States? And a little farther on these resolutions read:

WATER POWER.

Whereas Congress has declared "the water of all lakes, rivers, and other sources of water supply, upon the public lands and not navigable, shall remain and be held free from the appropriation and use of the public for irrigation, mining, and manufacturing purposes," we insist the Federal Government has no lawful authority to exercise control over the water of a State through ownership of public lands.

We maintain the waters of a State belong to the people of the State, and that the States should be left free to develop water-power possibilities and should receive fully the revenues and other benefits derived from such development.

Mr. Chairman, I have thought that the least that this Congress could do in the interest of 11 great Western States was to pay a little bit of attention to these bills as they are being put through. I have three times made the point of order of no quorum when the attendance had gotten down to a pitiful degree of smallness. I know what will happen when the final vote comes. Members will come in here and vote for one more bill to press more conservation down on the West, and they will not know the details of the bill.

In regard to the remarks of my colleague in his political speech, just made, I have not the time and do not care to take up the time of the House in reply. It is but proper for me to say that I started—and I am very proud of the fact that I did start—a small monthly paper, devoted to attacking the principles of red-flag socialism and to opposition to the dangerous Industrial Workers of the World. So far as I edited that paper, I stand by every word that I put in it. I wish I had had the power, the time, and the means to extend its influence throughout the United States, but I found on coming here to Washington, D. C., that the expenses were such that I could not maintain the paper, and I disposed of it. What has appeared in it since should not be credited to me. What has been read here I did not write and did not say. I thank the committee for its attention.

Mr. BRYAN. Will the gentleman name the date of his disposal of the paper?

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. MILLER. Mr. Chairman, returning now for a moment to the bill and the particular amendment we ought to be considering, you will find that the amendment offered by the gentleman from Wyoming is to strike out of paragraph 2 that part under which the lessee may be prohibited, without the consent of the Secretary of the Interior, from selling to any one consumer more than 50 per cent of the total output of his plant.

A few days ago, when this bill was first up for consideration, I made some observations with respect to the legal aspect of some features of the bill. I stated what I had every reason to believe was the law—at least it was the law when last I took occasion to ascertain the law. The gentleman from Oklahoma [Mr. FERRIS], in charge of the bill, a most delightful and distinguished Member of the House, rose and with a superbly majestic wave of his hand disposed of my proposition and my statement by saying that it was made so much waste paper by a very late decision of the Supreme Court in the Chandler-Dunbar case. Now, Mr. Chairman, it does not matter how gentlemen may quibble, how they may long to effectuate their desires, the fact remains that almost every paragraph of this bill is absolutely in open defiance of the Constitution of the United States. Now, these provisions can be so changed as to make them in harmony with the powers of Congress, but until so changed the bill can never be made effective. This particular part of the paragraph which the amendment offered to strike out is one which proposes that the Secretary of the Interior may say whether or not there shall be sold to A more than 50 per cent of the water power at one place, or to B or to C, and thus in effect disburse it arbitrarily as he sees fit. When did Congress ever have the power to meddle with the interior business exclusively within a State? This is not interstate business, it is not commerce. I consent at once to the proposition that if the Secretary had been clothed with power to exercise certain supervision over electric energy when transported into two or more States, Congress would be within its powers. This, however, covers not only interstate business, but business absolutely and entirely within a State.

Mr. THOMSON of Illinois. Will the gentleman yield?

Mr. MILLER. I can not yield because I have only a few minutes. If I could obtain an extension of time I should be delighted to yield. So after the gentleman had taken his seat the other day I betook myself to the library to find what this new decision was that had made waste paper of the Constitution of the United States; that had made waste paper of all the decisions of our Supreme Court. I have it with me here now. The Chandler-Dunbar case reported in Two hundred and twenty-ninth United States, page 53. Let us see what it decides and what it holds.

Mr. CLINE. Will the gentleman yield?

Mr. MILLER. I would like to yield and, perhaps, can when I make this statement, but not now. Congress decided by the passing of an act to construct some new locks at the Soo. In the act Congress specifically stated that all the water of that river was needed for purposes of navigation. Congress then authorized condemnation proceedings to acquire a strip of land bordering the stream and to acquire certain other properties.

The Chandler-Dunbar Co., under a revocable license previously secured, had constructed and was operating a water-power plant in the stream. This company was a riparian owner, as such claiming that it must be compensated for exclusion from the use of the water power inherent in the falls and rapids of the St. Marys River, whether the flow of the river be larger than the needs of navigation or not. Quoting from the decision:

From the foregoing it will be seen that the controlling questions are, first, whether the Chandler-Dunbar Co. has any private property in the water-power capacity of the rapids and falls of the St. Marys River which has been "taken," and for which compensation must be made under the fifth amendment to the Constitution; and, second, if so, what is the extent of its water power right and how shall the compensation be measured?

* * * * * * *

The technical title to the beds of the navigable rivers of the United States is either in the States in which the rivers are situated or in the owners of the land bordering upon such rivers. Whether in one or the other is a question of local law. (Shively *v.* Bowlby, 152 U. S., 1, 31; Philadelphia Co. *v.* Stimson, 223 U. S., 605, 624, 632; Scott *v.* Lattig, 227 U. S., 229.) Upon the admission of the State of Michigan

into the Union the bed of the St. Marys River passed to the State, and under the law of that State the conveyance of a tract of land upon a navigable river carries the title to the middle thread. (Webber *v.* The Pope Marquette, etc., 62 Mich., 626; Scranton *v.* Wheeler, 179 U. S., 141, 163; United States *v.* Chandler-Dunbar Water Power Co., 209 U. S., 447.)

The technical title of the Chandler-Dunbar Co., therefore, includes the bed of the river opposite its upland on the bank to the middle thread of the stream, being the boundary line at that point between the United States and the Dominion of Canada. Over this bed flows about two-thirds of the volume of water constituting the falls and rapids of the St. Marys River. By reason of that fact and the ownership of the shore the company's claim is that it is the owner of the river and of the inherent power in the falls and rapids, subject only to the public right of navigation. While not denying that this right of navigation is the dominating right, yet the claim is that the United States in the exercise of the power to regulate commerce may not exclude the rights of riparian owners to construct in the river and upon their own submerged lands such appliances as are necessary to control and use the current for commercial purposes, provided only that such structures do not impede or hinder navigation, and that the flow of the stream is not so diminished as to leave less than every possible requirement of navigation, present and future. This claim of a proprietary right in the bed of the river and in the flow of the stream over that bed, to the extent that such flow is in excess of the wants of navigation constitutes the ground upon which the company asserts that a necessary effect of the act of March 3, 1909, and of the judgment of condemnation in the court below, is a taking from it of a property right or interest of great value, for which, under the fifth amendment, compensation must be made.

* * * * * * *

This title of the owner of fast land upon the shore of a navigable river to the bed of the river is at best a qualified one. It is a title which inheres in the ownership of the shore and, unless reserved or excluded by implication, passed with it as a shadow follows a substance, although capable of distinct ownership. It is subordinate to the public right of navigation, and however helpful in protecting the owner against the acts of third parties, is of no avail against the exercise of the great and absolute power of Congress over the improvement of navigable rivers. That power of use and control comes from the power to regulate commerce between the States and with foreign nations. It includes navigation and subjects every navigable river to the control of Congress. All means having some positive relation to the end in view which are not forbidden by some other provision of the Constitution are admissible. If, in the judgment of Congress, the use of the bottom of the river is proper for the purpose of placing therein structures in aid of navigation, it is not thereby taking private property for a public use, for the owner's title was in its very nature subject to that use in the interest of public navigation. If its judgment be that structures placed in the river and upon such submerged land are an obstruction or hindrance to the proper use of the river for purposes of navigation, it may require their removal and forbid the use of the bed of the river by the owner in any way which in its judgment is injurious to the dominant right of navigation. So, also, it may permit the construction and maintenance of tunnels under or bridges over the river and may require the removal of every such structure placed there with or without its license, the element of contract out of the way, which it shall require to be removed or altered as an obstruction to navigation. In Gilman *v.* Philadelphia (3 Wall., 713, 724) this court said:

"Commerce includes navigation. The power to regulate commerce comprehends the control for that purpose of all the navigable waters of the United States which are accessible from a State other than those in which they lie. For this purpose they are the public property of the Nation and subject to all the requisite legislation by Congress. This necessarily includes the power to keep them open and free from any obstructions to their navigation interposed by the States or otherwise, to remove such obstructions when they exist, and to provide, by such sanctions as they may deem proper, against the occurrance of the evil and for the punishment of offenders. For these purposes Congress possesses all the powers which existed in the States before the adoption of the National Constitution and which have always existed in the Parliament in England."

Note the discussion by the court is solely in reference to navigation. It is stated with great clearness that Congress has complete control over navigable waters—not to regulate private business thereon or connected therewith, but for purposes of navigation, and for those purposes alone. At every step and in every statement the court explicitly restricts Federal regulation to navigation needs. Observe in the quoted decision of Gilman *v.* Philadelphia (3 Wall., 713) how the court there so clearly restricts Federal power over navigable waters when it says:

The power to regulate commerce comprehends the control for that purpose, and to the extent necessary, of all the navigable waters. * * * For this purpose they are the public property of the Nation and subject to all the requisite legislation.

Could court or law more clearly announce that the control of the Federal Government over navigable waters within a State is strictly limited to purposes of navigation or commerce? If any Member is sufficiently interested, let him turn to the record of the proceedings on that former occasion when this matter was up and he will find this is the exact proposition I laid down as the law. I am indebted to the gentleman for citing this case, which reaffirms the law as I stated it some days ago.

But let me quote some more from this same illuminating decision:

That riparian owners upon public navigable rivers have, in addition to the rights common to the public, certain rights to the use and enjoyment of the stream, which are incident to such ownership of the bank must be conceded. These additional rights are not dependent upon title to the soil over which the river flows, but are incident to ownership upon the bank. Among these rights of use and enjoyment is the right, as against other riparian owners, to have the stream come to them substantially in its natural state, both in quantity and quality. They have also the right of access to deep water, and when not forbidden by public law may construct for this purpose wharves, docks, and piers in the shallow water of the shore. But every such structure in the water of a navigable river is subordinate to the right of navigation and subject to the obligation to suffer the consequences of the improvement of navigation and must be removed if Congress in the assertion of its power over navigation shall determine that their continuance is detrimental to the public interest in the navigation of the river. (Gibson *v.* United States, 166 U. S., 269; Transportation Co. *v.* Chicago, 99 U. S., 635.) It is for Congress to decide what is and what is not an obstruction to navigation. (Pennsylvania *v.* Wheeling Bridge Co., 18 How., 421; Union Bridge Co. *v.* United States, 204 U. S., 364; Philadelphia Co. *v.* Stimson, 223 U. S., 605.)

And, again—

Upon what principle can it be said that in requiring the removal of the development works which were in the river upon sufferance Congress has taken private property for public use without compensation? In deciding that a necessity existed for absolute control of the river at the rapids Congress has, of course, excluded until it changes the law every such construction as a hindrance to its plans and purposes for the betterment of navigation. The qualified title to the bed of the river affords no ground for any claim of a right to construct and maintain therein any structure which Congress has by the act of 1909 decided in effect to be an obstruction to navigation and a hindrance to its plans for improvement. That title is absolutely subordinate to the right of navigation and no right of private property would have been invaded if such submerged lands were occupied by structures in aid of navigation or kept free from such obstructions in the interest of navigation. (Scranton *v.* Wheeler, supra; Hawkins Light House cases, 39 Fed., 83.) We need not consider whether the entire flow of the river is necessary for the purposes of navigation or whether there is a surplus which is to be paid for if the Chandler-Dunbar Co. is to be excluded from the commercial use of that surplus. The answer is found in the fact that Congress has determined that the stream from the upland taken to the international boundary is necessary for the purposes of navigation. That determination operates to exclude from the river forever the structures necessary for the commercial use of the water power. That it does not deprive the Chandler-Dunbar Co. of private property rights follows from the considerations before stated.

It is said that the twelfth section of the act of 1909 authorizes the Secretary of War to lease upon terms agreed upon any excess of water power which results from the conservation of the flow of the river and the works which the Government may construct. This, it is said, is a taking of private property for commercial uses and not for the improvement of navigation. But, aside from the exclusive public purpose declared by the eleventh section of the act, the twelfth section declares that the conservation of the flow of the river is "primarily for the benefit of navigation and incidentally for the purpose of having the water power developed either for the direct use of the United States or by lease * * * through the Secretary of War."

If the primary purpose is legitimate, we can see no sound objection to leasing any excess of power over the needs of the Government. The practice is not unusual in respect to similar public works constructed by State governments. In Kaukauna Co. *v.* Green Bay, etc., Canal (142 U. S., 254, 273), respecting a Wisconsin act to which this objection was made, the court said:

"But if in the erection of a public dam for a recognized public purpose there is necessarily produced a surplus of water which may properly be used for manufacturing purposes there is no sound reason why the State may not retain to itself the power of controlling or disposing of such water as an incident of its right to make such improvement. Indeed, it might become very necessary to retain the disposition of it in its own hands in order to preserve at all times a sufficient supply for the purposes of navigation. If the riparian owners were allowed to tap the pond at different places and draw off the water for their own use, serious consequences might arise not only in connection with the public demand for the purposes of navigation, but between the riparian owners themselves, as to the proper proportion each was entitled to draw—controversies which could only be avoided by the State reserving to itself the immediate supervision of the entire supply. As there is no need of the surplus running to waste, there was nothing objectionable in permitting the State to let out the use of it to private parties and thus reimburse itself for the expenses of the improvement."

It is at best not clear how the Chandler-Dunbar Co. can be heard to object to the selling of any excess of water power which may result from the construction of such controlling or remedial works as shall be found advisable for the improvement of navigation, inasmuch as it had no property right in the river which has been "taken." It has, therefore, no interest whether the Government permit the excess of power to go to waste or made the means of producing some return upon the great expenditure.

Here you have the whole case. These are the facts. This is the decision so valiantly relied upon by the bold champion of this bill. Surely he had never read this case. He is far too intelligent after reading to make any such claims for it. We must conclude he has been imposed upon by some one whose power to reason suddenly stopped. Not only does the case fail to sustain the gentleman or his bill but actually sustains our criticism of the bill as far as it has any bearing at all. Observe the facts: Congress passes an act that says all the water in the St. Marys River is needed for purposes of navigation; that the private property on and along said stream, including a private water-power plant, shall be condemned; that the surplus water going over a Government dam incidental to the primary effort to erect structures for the improvement of navigation may be turned into electrical energy and sold by the Government. The court holds the power of Congress is supreme over navigable waters for the purposes of navigation; that private persons by acquiring riparian rights can not secure a property interest in a water power as against an act of Congress stating all the water is needed for navigation.

Of course this is the law. Of course, also, this case does not in any way whisper or suggest that Congress has power to override State laws by making rules of its own to regulate private

business within the State, even though that private business is the selling or using of water power developed on land a part of the public domain.

The Chandler-Dunbar case, from the first page to the last, contains not a line or a syllable that bears at all on the power of the Congress to legislate as provided in the bill. Now, if the gentleman will indulge me a little further, may I call the attention to the powers of Congress as decided by the Supreme Court, and which do stand to-day as they stood a few years ago, and which have not been made so much waste paper.

It is, of course, fundamental to state that the powers possessed by Congress are not general, but confined to those enumerated in the Constitution. The powers of the Congress are those surrendered by the States, or rather by the people of the United States. All powers not specifically surrendered are still retained either by the States or by the people of the Union. I challenge any gentleman to point out in the Federal Constitution any authority for Congress to go into the business primarily of controlling water powers operated by private persons or corporations, or controlling public-service corporations whose business is wholly within a State.

A decision of our Supreme Court, directly in point and exceedingly valuable in construing the legal effect of the terms of this bill, is a very recent one, as well as one of the utmost importance. I refer to the case of Kansas against Colorado, reported in Two hundred and sixth United States, page 46.

The State of Colorado, directly and through certain corporations authorized by it, was utilizing the waters of the Arkansas River in the work of reclaiming or irrigating arid lands. This same river flows through the State of Kansas, after leaving Colorado. The State of Kansas brought an action to restrain Colorado and the said corporations from so using the waters of the Arkansas River, because such use prevented the natural and customary flow of the river. The United States intervened, claiming the right to use the waters of that river to irrigate the public domain and Indian reservations. The river was not actually navigable, either in Colorado or Kansas, and no claim was made that the interests of navigation were involved.

So it is seen in that case the State of Colorado for irrigation and reclamation purposes was utilizing a large part of the water of the Arkansas River. The State of Kansas desired that those waters should be transferred on down within its own borders for a similar purpose, and they claimed that Kansas had a right to receive the water with its flow practically unimpeded. They brought an action and asked the Government to restrain Colorado from using the waters of the river.

Mr. CLINE. Will the gentleman just yield for a brief interruption there? I will not be tedious.

Mr. MILLER. I will yield.

Mr. CLINE. But did not the Government in that very case decide that had the Government sought to intervene for the purpose of protecting navigation that then the Government would have had a standing in the court?

Mr. MILLER. Absolutely; and the gentleman gives further testimony as to the law. The court first clearly defines the powers of Congress over the waters of streams within the State, and then holds that the control of such streams is vested in the State, excepting only for navigation purposes. Quoting from the syllabus:

> The Government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States, and in that alone; that the manifest purpose of the tenth amendment to the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people; and that if in the changes of the years further powers ought to be possessed by Congress they must be obtained by a new grant from the people. While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State except to preserve or improve the navigability of the stream; that the full control over those waters is, subject to the exception named, vested in the State.

And there it shall remain forever.

Mr. FERGUSSON. Will the gentleman yield?

Mr. MILLER. If the gentleman will make his question very short.

Mr. FERGUSSON. I will. Does not the gentleman recognize that this bill deals with Government land situated within the States?

Mr. MILLER. My dear sir, I am pleased the question was asked. I was about to come to it. The fact that the United States Government owns some of the land can not give it a single power not granted by the Constitution. It has no greater power by reason of that ownership than I have or has the gentleman from New Mexico. Congress has only those powers which the States surrendered; it is not possessed of powers except those which were given by the States. Among those we have the power to regulate commerce, and the court has held that that power includes control over navigation. But we can not step beyond that. There is no question of navigation involved in the pending bill. Ninety-nine per cent of these water items are beyond the limits of navigation. There is no question of interstate commerce. It is simply a square industrial enterprise by the United States, and, as was so well stated by the gentleman from Wyoming the other day, this is the greatest usurpation of centralized power ever displayed in the history of our Nation. It surpasses the claims of the most ultra Federalist of ancient days. It is also one of the greatest enterprises of a business nature ever undertaken by a private or by a public corporation. And do not forget, it is being undertaken by the United States Government.

Discussing the power of Congress, the court said:

> This amendment, the tenth, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. It reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The argument of counsel ignores the principal factor in this article, to wit, "the people." Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it, "we the people of the United States," not the people of one State, but the people of all the States, and Article X reserves to the people of all the States the powers not delegated to the United States. The powers affecting the internal affairs of the States not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States. The people who adopted the Constitution knew that in the nature of things they could not foresee all the questions which might arise in the future, all the circumstances which might call for the exercise of further national powers than those granted to the United States, and after making provision for an amendment to the Constitution by which any needed additional powers would be granted, they reserved to themselves all powers not so delegated.

Discussing the right of the State to control the waters of streams within its borders, the court said:

> Although this power of changing the common law rule as to streams within its dominion undoubtedly belongs to each State, yet two limitations must be recognized: First, that in the absence of specific authority from Congress a State can not by its legislation destroy the right of the United States, as the owner of lands bordering on a stream, to the continued flow of its waters; so far at least as may be necessary for the beneficial uses of the Government property; second, that it is limited by the superior power of the General Government to secure the uninterrupted navigability of all navigable streams within the limits of the United States. In other words, the jurisdiction of the General Government over interstate commerce and its natural highways vests in that Government the right to take all needed measures to preserve the navigability of the navigable water courses of the country even against any State action.

It follows from this that if in the present case the National Government was asserting, as against either Kansas or Colorado, that the appropriation for the purposes of irrigation of the waters of the Arkansas was affecting the navigability of the stream, it would become our duty to determine the truth of the charge. But the Government makes no such contention. On the contrary, it distinctly asserts that the Arkansas River is not now and never was practically navigable beyond Fort Gibson, in the Indian Territory, and nowhere claims that any appropriation of the waters by Kansas or Colorado affects its navigability.

It rests its petition of intervention upon its alleged duty of legislating for the reclamation of arid lands; alleges that in or near the Arkansas River, as it runs through Kansas and Colorado, are large tracts of those lands; that the National Government is itself the owner of many thousands of acres; that it has the right to make such legislative provision as in its judgment is needful for the reclamation of all these arid lands and for that purpose to appropriate the accessible waters.

In support of the main proposition it is stated in the brief of its counsel:

> That the doctrine of riparian rights is inapplicable to conditions prevailing in the arid region; that such doctrine, if applicable in said region, would prevent the sale, reclamation, and cultivation of the public arid lands and defeat the policy of the Government in respect thereto; that the doctrine which is applicable to conditions in said arid region, and which prevails therein, is that the waters of natural streams may be used to irrigate and cultivate arid lands, whether riparian or nonriparian, and that the priority of appropriation of such waters and the application of the same for beneficial purposes establishes a prior and superior right.

In other words, the determination of the rights of the two States inter esse in regard to the flow of waters in the Arkansas River is subordinate to a superior right on the part of the National Government to control the whole system of the reclamation of arid lands. That involves the question whether the

reclamation of arid lands is one of the powers granted to the General Government. As heretofore stated, the constant declaration of this court from the beginning is that this Government is one of enumerated powers.

Again:

But it is useless to pursue the inquiry further in this direction. It is enough for the purposes of this case that each State has full jurisdiction over the lands within its borders, including the beds of streams and other waters. (Martin *v.* Waddell, 16 Pet., 367; Pollard *v.* Hagan, 3 How., 212; Goodtitle *v.* Kibbe, 9 How., 471; Barney *v.* Keokuk, 94 U. S., 324; St. Louis *v.* Myers, 113 U. S., 566; Packer *v.* Bird, 137 U. S., 61; Hardin *v.* Jordan, 140 U. S., 371; Kaukauna Water Power Co. *v.* Green Bay & Mississippi Canal Co., 142 U. S., 254; Shively *v.* Bowlby, 152 U. S., 1; Water Power Co. *v.* Water Commissioner, 168 U. S., 349; Kean *v.* Calumet Canal Co., 190 U. S., 452.) In Barney *v.* Keokuk, supra, Mr. Justice Bradley said (p. 338):

"And since this court, in the case of The Genesee Chief (12 id., 443), has declared that the Great Lakes and other navigable waters of the country, above as well as below the flow of the tide, are in the strictest sense entitled to the denomination of navigable waters and amenable to the admiralty jurisdiction, there seems to be no sound reasons for adhering to the old rule as to the proprietorship of the beds and shores of such waters. It properly belongs to the States by their inherent sovereignty, and the United States has wisely abstained from extending (if it could extend) its survey and grants beyond the limits of high water."

Congress clearly understood the limitations of its powers when it passed the reclamation act. In that it clearly recognized the paramount right of the State to control by law the waters within its borders. All the rules and laws governing the usage of water for irrigation purposes are State laws. Congress never assumed—because prior to the present hour it had more sense than to do so—never assumed to override the superior right of the State to control its own watercourses. Section 8 of the reclamation act is as follows:

SEC. 8. That nothing in this act shall be construed as affecting or intending to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder; and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of the water acquired under the provisions of this act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right.

The power of Congress to legislate respecting interstate commerce has been the subject of numerous decisions. It can be finally stated that the power of Congress does not go beyond, and is strictly confined to, commerce of an interstate nature. A State does not have authority to pass a law that interferes with or puts a burden upon interstate commerce. Such is the holding in the Shreveport case of recent date. Similarly, Congress has no authority to prescribe any rule or procedure respecting commerce unless it has some real or substantial relation to or connection with the commerce regulated.

A recent and a highly instructive decision is that of the Supreme Court in Adair *v.* United States (208 U. S., 161). In this case Congress had made it a crime for a railway official engaged in interstate commerce to discharge an employee because he was a member of a labor union. Adair was convicted in Kentucky and appealed. In the opinion the court said:

Manifestly, any rule prescribed for the conduct of interstate commerce, in order to be within the competency of Congress under its power to regulate commerce among the States, must have some real or substantial relation to or connection with the commerce regulated. But what possible legal or logical connection is there between an employee's membership in a labor organization and the carrying on of interstate commerce? Such relation to a labor organization can not have in itself and in the eye of the law any bearing upon the commerce with which the employee is connected by his labor and services. Labor associations, we assume, are organized for the general purpose of improving or bettering the conditions and conserving the interests of its members as wage earners—an object entirely legitimate and to be commended rather than condemned. But surely those associations as labor organizations have nothing to do with interstate commerce as such. One who engages in the service of an interstate carrier will, it must be assumed, faithfully perform his duty, whether he be a member or not a member of a labor organization. His fitness for the position in which he labors and his diligence in the discharge of his duties can not in law or sound reason depend in any degree upon his being or not being a member of a labor organization. It can not be assumed that his fitness is assured or his diligence increased by such membership, or that he is less fit or less diligent because of his not being a member of such an organization. It is the employee as a man and not as a member of a labor organization who labors in the service of an interstate carrier.

* * * * * * *

Looking alone at the words of the statute for the purpose of ascertaining its scope and effect, and of determining its validity, we hold that there is no such connection between interstate commerce and membership in a labor organization as to authorize Congress to make it a crime against the United States for an agent of an interstate carrier to discharge an employee because of such membership on his part. If such a power exists in Congress, it is difficult to perceive why it might not, by absolute regulation, require interstate carriers, under penalties, to employ in the conduct of its interstate business only members of labor organizations, or only those who are not members of such organizations—a power which could not be recognized as existing under the Constitution of the United States. No such rule of criminal liability as that to which we have referred can be regarded as in any just sense a regulation of interstate commerce. We need scarcely repeat what this court has more than once said—that the power to regulate interstate commerce, great and paramount as that power is, can not be exerted in violation of any fundamental right secured by other provisions of the Constitution.

Having in mind, therefore, these clearly enunciated principles by our Supreme Court, let us apply them to the paragraphs of the bill. Only a brief glance is necessary to disclose clearly how all constitutional limitation has been violated. The bill prescribes rules and regulations to operate in the various States in open conflict with both State rights and State laws. In paragraph 1 the limitation of 50 years would be in open conflict with the laws of such a State as Wisconsin, since the laws of that State say the right to operate the water power is perpetual, subject to the rules and regulations that law prescribes.

The last half of paragraph 2 is ridiculously beyond the power of Congress, and paragraph 3 is the high watermark of impotent aspirations wallowing in the network of State and Federal law.

From a dozen different angles one can view this section and from each see that it is absolutely void of legality. To illustrate, the Secretary of the Interior is given complete control over the service, charges for service, even over the issuance of stocks and bonds, of the lessee when he is doing business in two or more States. One may be doing business in two or three States and yet not be doing an interstate business. Then the Secretary is given marvelous authority to permit or prohibit combination of plants, except in certain cases. The framers of the bill assumed Congress had power to regulate water-power business entirely within a State, just as Congress has power to regulate interstate commerce. They will search through the Constitution in vain to find any authority for the powers here conferred upon the Secretary.

Mr. FERGUSSON. Mr. Chairman——

Mr. MILLER. I do not like to seem discourteous, but I have only a short period of time and I must hurry along.

And it seems to be entirely overlooked that there exist States with sovereign powers. That will be found out sometime. Now, it is an easy matter to change these provisions so as to bring them within the limits of the Constitution. You can do it on the contract basis, but you can not do it in any other way.

Now, referring to the question just asked by the gentleman from New Mexico [Mr. FERGUSSON], if the United States, by its possession of the land, can not do upon it anything it pleases, I will say, of course it can not; it can not do anything upon that piece of land except to sell it or lease it and control interstate commerce respecting it. But this bill has nothing to do with navigation or interstate commerce. If any gentleman will point out to me any place or any part in this bill dealing with navigation or with commerce, then I am prepared to modify my views. Nay, possibly some gentleman will suggest that this very paragraph does that, wherein it says as follows:

SEC. 3. That in case of the development, generation, transmission, and use of power or energy under such a lease in a Territory, or in two or more States, the regulation and control of service and of charges for service to consumers and of the issuance of stock and bonds by the lessee is hereby conferred upon the Secretary of the Interior.

There are some words which possibly might give a suggestion that where power is being transmitted from one State into another, thus becoming interstate commerce, the terms of this paragraph apply. I grant that.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. O'SHAUNESSY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Platt, one of its clerks, announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 14155. An act to amend an act entitled "An act to amend an act of Congress approved March 28, 1900 (Stat. L., p. 52), entitled 'An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State normal school thereon, and for a public park.'"

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 1657) providing for second homestead and desert-land entries, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses

thereon, and had appointed Mr. MYERS, Mr. THOMAS, and Mr. SMOOT as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 1698) to amend an act entitled "An act to provide for an enlarged homestead," and acts amendatory thereof and supplementary thereto, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MYERS, Mr. PITTMAN, and Mr. SMOOT as the conferees on the part of the Senate.

DEVELOPMENT OF WATER POWER.

The committee resumed its session.

Mr. MILLER. How much time did I have, Mr. Chairman?

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that I have two minutes in which to answer for the committee. I was crowded out by a side issue here.

Mr. MILLER. I would really like to have five minutes more if I can have it, Mr. Chairman.

Mr. MONDELL. The gentleman from Minnesota has not taken much time, and this is a very important feature of this discussion.

Mr. FERRIS. Mr. Chairman, I can not consent to open this section again if the committee is not willing to give me two minutes.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent that he may address the committee on the pending amendment for two minutes.

Mr. MONDELL. Mr. Chairman, reserving the right to object, I shall not object if the gentleman from Oklahoma will allow the gentleman from Minnesota to have some additional time.

Mr. FERRIS. I really hope the gentleman from Minnesota will not ask for another five minutes. The committee has not kept any time to itself.

Mr. STAFFORD. The gentleman is presenting an argument in which we are interested.

Mr. FERRIS. He is presenting an argument that has been presented on every water-power proposition.

Mr. STAFFORD. It was not discussed the other day.

The CHAIRMAN. The question is whether there is objection to the request submitted by the gentleman from Oklahoma [Mr. FERRIS], that he may address the committee for two minutes on the pending amendment.

Mr. MONDELL. Do I understand the gentleman from Minnesota [Mr. MILLER] desires more time?

Mr. MILLER. I do; and I will say to the gentleman from Wyoming that I appreciate the position of the gentleman from Oklahoma, and I would like some more time on the next paragraph. I do not propose to be shut off.

Mr. FERRIS. I have no disposition to shut the gentleman off.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma [Mr. FERRIS], that he may address the committee for two minutes?

There was no objection.

Mr. FERRIS. Mr. Chairman, the substance of the argument of the gentleman from Minnesota is that the Federal Government has not the right to do with its own property whatsoever it will. I assert that both in law, in fact, and in reason the Federal Government has the right to do on its property anywhere in the United States what it desires to do. With that, I shall pass to the amendment of the gentleman from Wyoming [Mr. MONDELL].

The specific amendment which was offered more than an hour ago by the gentleman from Wyoming is on page 3, line 17, to strike out lines 17, 18, 19, and part of 20, which in effect would give the water-power company the right to sell all of the power produced to one concern or to one person or lessee. It is patent that that should not be permitted. The committee thought there ought to be some restraint upon the water-power company in disposing of its product in the public interest.

In other words, the water-power company, if the amendment of the gentleman from Wyoming is adopted, will have the right to sell its entire output, to the exclusion of local irrigation interests and local interests generally, to one concern. We ought not to permit that to be done, and the amendment ought not to be adopted. I can not think the gentleman from Wyoming wants to do that. It is clearly against the interests of his State. The amendment adopted some time ago should not have been adopted, but surely this amendment ought not to be adopted from any standpoint or any reason. The language as reported by the committee put the limitation on the amount of the water power that can be sold to a single person. The amendment of the gentleman takes that limitation off. The Secretary thinks it ought to be in. I think quite all of the authorities that came before the committee thought it ought to be in, and the entire committee thinks it ought to be in. The committee should be slow to accept amendments here that have had no consideration. Some of them may look good on their face, but will work mischief in fact. An amendment that has not been well planned and well thought out, of so sweeping importance as that of the gentleman from Wyoming [Mr. MONDELL], ought not to be agreed to, and I hope the committee will not agree to it.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wyoming [Mr. MONDELL].

The question was taken, and the amendment was rejected.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming moves to strike out the last word.

Mr. MONDELL. Mr. Chairman——

Mr. FERRIS. Mr. Chairman, the debate is closed on the entire paragraph.

Mr. MONDELL. No; only on the amendment.

Mr. FERRIS. No; on the entire paragraph and amendments thereto. There can not be any debate.

The CHAIRMAN. The Chair is informed that under the agreement all debate upon this paragraph is exhausted.

Mr. MURDOCK. That is right.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. That in case of the development, generation, transmission, and use of power or energy under such a lease in a Territory, or in two or more States, the regulation and control of service and of charges for service to consumers and of the issuance of stock and bonds by the lessee is hereby conferred upon the Secretary of the Interior or committed to such body as may be provided by Federal statute: *Provided*, That the physical combination of plants or lines for the generation, distribution, and use of power or energy under this act or under leases given hereunder may be permitted, in the discretion of the Secretary, but combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade with foreign nations or between two or more States or within any one State, or to fix, maintain, or increase prices for electrical energy or service are hereby forbidden.

Mr. MONDELL. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] offers an amendment, which the Clerk will report.

Mr. MONDELL. Mr. Chairman, my amendment is in lieu of section 3, down to the first proviso on page 4, line 2.

The Clerk read as follows:

Strike out section 3 down to the word "statute," in line 2 of page 4, and insert the following: "That all leases shall be granted upon the condition and subject to the reservation that at all times during the use and enjoyment thereof, and of the water power appropriated and used in connection therewith, the service and charges therefor, including all electric power generated or used in connection therewith, shall be subject to the regulation and control of the State within which the same is used, and subject to the fixing of the rates and charges for the use thereof and the issuance of securities by such State or under its authority."

Mr. MONDELL. Mr. Chairman, the gentleman from Minnesota [Mr. MILLER] a few moments ago gave us an exceedingly interesting legal discussion of some of the features of this measure. I do not intend to go at length, further than I did in my opening speech, into these legal questions. Since Congress passed a bill which provided in substance that a chickadee bird, sailing through the blue sky, if he happened to pass over a point directly above a State line became interstate commerce, I have concluded that it is hardly worth while to talk about the Constitution of the United States in the discussion of any legislation in this body. [Laughter.] However, I do not think that even the gentlemen who have no regard whatever for the Constitution, who have no tolerance for the kind of Government that our fathers established and which we live under—I think the gentlemen who are perfectly willing to tear down all the pillars of the Constitution ought not to do it when it is clearly patent they can not serve any public good by doing it and will serve monopoly instead.

Now, the provision of the bill which I have proposed to strike out provides that if any part of the power developed is used in more than one State the Secretary of the Interior shall control the entire enterprise. In other words, a great enterprise might be built up and might operate for years in one State completely and satisfactorily under State control, and, having finally run a line to light one lamp across a State line, it would immediately become, like the chickadee bird under the migratory bird act, interstate commerce, subject, as to the whole concern, to regulation by the Secretary of the Interior, taking it absolutely out of the control of the people who use it, the people who are to be served.

There is some question as to the extent of the power of the Federal Government, as to just what the Federal Government may do in prescribing rules and regulations under which its public lands may be used. The gentleman from Minnesota [Mr. MILLER] is certainly right when he contends that the

Federal Government, in providing rules and regulations for the use of its public lands, can not thereby legally assert a power which the Constitution does not give the Federal Government.

Mr. SELDOMRIDGE. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. In other words, there are no implied powers granted to the Federal Government by reason of its ownership of land, and the courts have decided that many times. But the discretion and power of the Federal Government in laying down rules and regulations relative to the use of public lands is, I think, pretty broad.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield there?

Mr. MONDELL. But those rules, which are the rules laid down by a proprietor, can not be held to enlarge the powers of the Federal Government. I yield to the gentleman from Colorado [Mr. SELDOMRIDGE].

Mr. SELDOMRIDGE. I wanted to ask the gentleman if he believed, in case the Federal Government itself should build a power plant on a public domain, it would not have the right to charge the consumer of that power any price it saw fit independent of any State regulation or control?

Mr. MONDELL. Well, I am not a lawyer——

Mr. SELDOMRIDGE. Neither am I——

Mr. MONDELL. I am inclined to think not, but I do not want to give a curbstone opinion on a proposition of that kind. We are crossing that bridge now.

Mr. SELDOMRIDGE. I understand that that is the contention of the chairman of the committee—that, it being Federal property and being absolutely under the control of the Federal Government, the Government can do with it as it pleases.

Mr. MONDELL. I will say to my friend from Colorado that I still believe in the good old-fashioned doctrine that the people of this country reserved to themselves within the municipalities all the powers that they did not expressly grant to the Federal Government, and you can not find any power anywhere in the Federal Government that is not expressed in the Federal Constitution. I do not think you will find in the Constitution any power, expressed or implied, for the Federal Government to put itself above a State in the manner suggested.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Illinois?

Mr. MONDELL. Yes.

Mr. THOMSON of Illinois. Right on that last remark of the gentleman from Wyoming, although he is not a lawyer, having, however, interpreted part of the Constitution, will he tell us what he thinks of this power:

> The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Mr. MONDELL. Certainly. That includes more than public lands, I will say to the gentleman; but Congress has, of course, the right to dispose of public lands.

Mr. THOMSON of Illinois. It does include the pubilc lands?

Mr. MONDELL. It does include the public lands, but it includes more than public lands. No one has denied the right of the Federal Government to dispose of the public lands or to make proper rules and regulations relative to their use and their disposition.

Mr. THOMSON of Illinois. That is what I say.

Mr. MONDELL. But it can not use its ownership and proprietorship of the public lands as an excuse for attempting to exercise sovereignty which it does not possess. That is our contention.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I ask unanimous consent that I may have five minutes more. I really have not got to the discussion of my amendment.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent that his time be extended five minutes. Is there objection?

Mr. FERRIS. Reserving the right to object, I should like to see if we can get the time limited.

Mr. STAFFORD. I hope the gentleman is not going to limit time on the paragraph.

Mr. FERRIS. No; on the amendment. I ask unanimous consent that debate upon the pending amendment and all amendments thereto be closed in 30 minutes.

Mr. MONDELL. On the amendment and the amendments to it?

Mr. FERRIS. Yes; but not on the paragraph. It does not close debate on the paragraph.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent that debate on the pending amendment and all amendments thereto be closed in 30 minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent that he may proceed for five minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Wyoming is recognized for five minutes.

Mr. MONDELL. Mr. Chairman, I did not intend to go into a constitutional discussion of the matter, but simply made the observations that I did, leading up to my amendment. Now, let us see what the situation is under this bill. So far as the regulation of the rates and charges of an enterprise entirely within one State is concerned, there is nothing in this bill that fixes or attempts to fix the power of the States or attempts to strengthen the power of the States. I take it, it is assumed by those who drew the bill that an enterprise wholly within a State is regulated by the State, but no effort is made to aid the State or strengthen the State in its power of control. Now, when an enterprise distributes electrical energy in two States, it is proposed, contrary to the Constitution and to our form of Government, to give the Secretary of the interior authority to take over the entire enterprise, no matter how large it may be, and regulate it in every way.

My amendment has two purposes: First, to strengthen the power of the State over these corporations by providing that every lease shall be dependent upon the acceptance of the power of the State to control. Unless you do put some provision of that sort in the bill, if one of these enterprises or the people owning it should refuse to acknowledge the right of the State to control it, there is no way in which the Federal Government can be of any assistance in successfully issuing the power of the State. Now, I suggest to these federalistic gentlemen who want to do unconstitutional things, as they say, in the interest of the people or for the benefit of the people, why not let them surprise themselves by doing a perfectly constitutional thing which will strengthen the power of the people locally over these corporations?

My amendment first puts the people who have the right to control in such a position that if their right to control is denied the lease is canceled. Second, it provides that the control shall be in the State where the plant is located or the current used; in other words, each State would control the part of the enterprise that it had to do with. We simply leave the law and the Constitution just as they are, but we use the fact of the ownership of land by the Federal Government to strengthen the hands of the State in its control. That is the logical way to do this thing. It is infinitely more effective than the provision contained in the bill. It does help each State, and it helps all of the States where an enterprise is in more than one, and it holds over these lessees the danger of cancellation if they do not fully acknowledge the power of the State and its people to control.

Mr. RAKER. What is the object of the gentleman in having Congress pass upon the question of the handling of the appropriation of water and the connection with it?

Mr. MONDELL. There is nothing in my amendment that has anything to do with the appropriation of water, except that it says that all operations under a lease and under the water right shall be subject to the control of the States. They are subject to the control of the States, but proposing to so fix these leases that the power of the Federal Government—not the power that it has no right to exercise, but the power it has the right to exercise—may be used to aid the States in their complete control of the power projects within their borders.

Mr. MILLER. Mr. Chairman, when my time expired I was proceeding to read and discuss a part of section 3. Apparently the gentlemen who prepared the bill had in mind that by that language they were controlling interstate commerce. Let us see what it says:

> A lease in a territory, or in two or more States.

That does not say through two or more States. That does not say through one State into another. That says in two or more States. Now, any of us can see a thousand illustrations, where it would not be interstate commerce at all. The States of Wisconsin and Minnesota lie side by side, separated for quite a distance by the Mississippi and then by the St. Croix Rivers. There are water powers along those streams. We will say here is a power plant being constructed on the St. Croix, on Government land, one plant at one place. It has one line running into Wisconsin, delivering power there. It has another line running into Minnesota, delivering power there.

They are not doing an interstate business. They are doing business in two States. You can not give Congress the power and authority to regulate the proceedings and business of a company that is doing business in two States and not an interstate business by calling it any name you please. I fancy we can imagine cases where a concern might be doing business in three States. I can see one now. Take it up here at Harpers Ferry, where West Virginia, Maryland, and Virginia unite, with magnificent water powers right at the spot. There could be located a plant that would be doing business in three States, but never be doing an interstate business. Why, Mr. Chairman, instead of the proposition I submitted the other day having been made waste paper by the Chandler-Dunbar decision, I submit that every decision of the Supreme Court, and particularly its last expression which I read, makes absolute waste paper of three-fourths of the provisions of this bill.

Referring again to an inquiry oft repeated, Can not the United States do anything it pleases with its own lands? the answer is, Of course it can not. Gentlemen must not confuse ownership with sovereignty. Ownership does not give sovereignty. Ownership does not create sovereignty. If it did, we would all be sovereigns because we own something.

If I own a piece of land in the State of Wisconsin and build on that piece of land a water-power plant, I am subject to the laws of Wisconsin in every respect where those laws operate. Likewise, if the United States Government leases a site to an individual who builds a plant there, the last-named individual is subject to the laws of Wisconsin, and you can not enlarge or restrict the operation of the Wisconsin laws one single bit, no matter how many paragraphs you put into the bill. In my case there was a complete absence of power to override the laws of Wisconsin. Such is the situation as regards the United States. The United States may own the land, but suffers from a complete lack of power to override the laws of Wisconsin.

Again, let me state that the ownership by the United States Government can not and does not create or enlarge the powers that Congress possesses.

Mr. FERRIS. Will the gentleman yield?

Mr. MILLER. Yes.

Mr. FERRIS. I want to ask the gentleman if he is not aware that Congress passed, almost by unanimous vote in both Houses, the Hetch Hetchy bill, which provided for the regulation in the greatest detail of matters purely intrastate, power generated in the State, power used in the State, and, further, if it does not make unnecessary the whole argument that whatever Mr. A, the Government, agrees to with Mr. B, the lessee, and incorporates in the contract, that that is a contract between the lessee and the Federal Government?

Mr. MILLER. The gentleman is suggesting what might have been done by the committee. Of course, you can do it by contract, but you can not do it by rules and regulations.

Mr. FERRIS. The gentleman's question is so completely foreclosed by the fact that all the water power has been developed under regulations that I think no further reply is necessary.

Mr. MILLER. The gentleman states a fact which shows that even yet he does not clearly see the awful holes in his bill. Of course, Congress can require that water power on navigable streams can be developed only by complying with certain of its rules. That is regulating commerce and navigation. Indeed, there are some rules Congress could impose upon water-power development on the public domain, but, indeed, not rules or regulations that interfere with or put a burden upon the powers of the State.

So, Mr. Chairman, I might continue, proceeding from paragraph to paragraph, pointing out the futile features of the bill; but why multiply the illustrations? Let me call attention to section 9, and then I am done. This paragraph recognizes the right of a State to control the service, charges for service, and stock and bond issues. It says, in effect, that these are items within the control of the State, but adds that if the State does not exercise its power, then a person is designated by Congress to exercise it. The section recognizes that the control of these features comes within the powers of a State; how, then, can any person be clothed with the power to exercise these functions except at the hands of the State? If the Federal Government has no power to control, and the State has, then the Federal Government can not possibly confer that power upon anyone.

Before provisions such as these can become operative, the Constitution, under which we live, must be materially changed.

Mr. MURDOCK. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes, and I ask unanimous consent also to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Kansas has the right to extend his remarks. The gentleman from Kansas asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. MURDOCK. Mr. Chairman, a few moments ago, in the discussion of this conservation measure, a spirit of rancor was shown on the part of the two Republican gentlemen from Washington, Mr. HUMPHREY and Mr. JOHNSON, which I do not believe the newer Members of the House understand. Theodore Roosevelt ceased to be President March 4, 1909. For weeks preceding his departure from the White House there was hung up in one of the great committee rooms in this House, in jubilation, a daily bulletin. It first read "Only 30 days more." The next day this was replaced by a bulletin which announced "Only 29 days more." So that bulletin was daily changed until the day Mr. Roosevelt ceased to be President. That was a sincere expression on the part of the men who then controlled the Republican Party in the House. They were glad to chronicle the fact that he was going; glad to know he was gone.

Mr. RAKER. Will the gentleman yield?

Mr. MURDOCK. No; I will not yield now. One of the reasons that they then opposed Mr. Roosevelt—opposed him in the cloakroom, but not outside upon the floor, because they did not dare—was because of his friendship for Gifford Pinchot and the Pinchot policies. The moment Mr. Roosevelt ceased to be President the atmosphere of this House on the Republican side changed. At once there was open antagonism to Pinchot and his policies and an open indorsement and defense of Ballinger and the Ballinger policies, under which an attempt was made to rob the people of the great natural wealth of Alaska. The rancor and bitterness which has been shown in the scandalous and unjustified attacks here upon Gifford Pinchot to-day are the echo of that day. Let me say to you this conservation measure which you have before you now would not be here for consideration if it had not been for the policies of Theodore Roosevelt and Gifford Pinchot, and the defeat of the very men who are so free in their criticisms to-day. However, I did not rise for the purpose of defending those who need no defense. I rose for the purpose of reviewing the legislative history of the present Congress as evidencing the attitude of the three political parties here.

Mr. HUMPHREY of Washington. Will the gentleman yield?

Mr. MURDOCK. I would like to proceed, but I will yield to the gentleman.

Mr. HUMPHREY of Washington. I want to ask the gentleman whether he is going to extend his remarks along the line of what he has just been speaking about.

Mr. MURDOCK. No; I am going to speak on the major transactions of the present Congress.

CAMPAIGN PUBLICITY THAT IS NOT PUBLIC.

At the opening of the present Congress I introduced a resolution for the publication of all statements of campaign contributions, including congressional statements and those of national committees then on file with the Clerk of the House, pointing out that under the law, after the lapse of a certain period, these statements would be destroyed, and emphasizing the necessity of publication of the statements if the spirit of the campaign publicity laws were to be carried out. Consideration of my resolution was denied. The statements have never been published.

Both their totals and the list of the contributors contained in the statements were such that neither the Democratic nor Republican leadership here were inclined to enthuse over my proposal, for the Democratic leadership, after years of violent invective and denunciation of the excessive use of money in campaigns, knew that the Democratic national committee had spent more money than any other committee, nearly twice as much as the Progressive national committee, and $200,000 more than the Republican national committee. And the Republican leadership certainly felt that the sum total of its national committee's expenditures, in contrast with the eight electoral votes garnered by Mr. Taft, was a tragical exposition of campaign mismanagement best to be quickly forgotten. Mr. Wilson received 6,293,454 votes, Mr. Roosevelt 4,119,538, and Mr. Taft 3,464,080.

The total contributions and expenditures by the three national committees in 1912 are nevertheless illuminating. They were:

	Contributions.	Expenditures.
Democratic national committee	$1,159,446.33	$1,134,848.00
Republican national committee	904,827.67	900,363.58
Progressive national committee	676,672.73	665,500.00

Eloquent as the total figures are in a day of almost universal revolt against the "barrel" in politics, the detailed items of the statements, showing the sources of contribution, how much was given to the Democratic campaign by certain financial interests in New York, by J. Rupert, of New York, by Roger Sullivan, of Illinois, and others, would undoubtedly be more so had the Democratic leadership provided for their publication.

The refusal to publish them reflects in a way the attitude of the Democratic leadership against real reform, which is more clearly seen in its early, drastic, and persistent use of the secret caucus, its recourse to cloture, and its persistent refusal to change the rules of the House in the interest of popular government.

THE HALT IN REFORM OF THE RULES.

At the beginning of the present Congress the Progressives raised the standard of open committee meetings and the public conference. The Republican leadership, under this challenge and after its initial secret caucus had transacted its most important business, the empowering of its floor leader to select its representatives on committees, a continuation of the Cannon system, declared for open conferences—with a string to the declaration, which makes the pretense absurd—that the open conference can be thrown into a closed caucus by a majority vote. The Democratic leadership held to the closed caucus, with a modification, a provision which is bait to catch gudgeon, the provision that upon demand of one-fifth of those present a roll call shall be taken, which, if demanded, shall be given to the public. Inasmuch as the men in a Democratic caucus are all of one party, and naturally anxious to save one another from common party embarrassment, roll calls have been few and far between. Even when roll calls do take place they do not appear in the CONGRESSIONAL RECORD or in any publication where they are immediately accessible to the public. That the provision is a pretense is best shown by the fact that at the beginning of this Congress an attempt was made to open up all Democratic caucuses to the public. It was beaten. Under present Democratic leadership, therefore, King Caucus remains. Out of public view, without record of debate and secretly, great measures like the tariff measure and the currency law have been adopted, the representatives of the people bound, often against their better judgment and the interests of their constituents, and public debate and action thereafter in the House itself made pitiably perfunctory. For both the Underwood tariff bill and the Glass currency bill, as they left the House, were virtually word for word the bills passed out to the House by the Democratic caucus.

THE POWER OF THE COMMITTEE PIGEONHOLE.

Not only in its use of the caucus but in the matter of cloture the Democratic leadership, forgetting that one of the great causes for its accession to power was popular revolt against Cannonism, demonstrated how unwilling it is to depart from the old and un-American methods of narrow legislative control. Within the first month of the new Congress a "special rule" saving a great appropriation bill from amendment was adopted. Repeatedly through the life of this Congress the device of "special rules," because of which a nation arose in protest against Republican leadership in the House, has been adopted by the Democratic leadership.

Neither has that leadership suffered in this Congress needed improvement to be made in the general rules of the House. Under the initiative of the insurgents, the Democratic leadership displayed to the country a great anxiety to change the rules so that the House of Representatives should be representative in fact. The powers of the Speaker were diminished by taking away from him the right to name membership on committees. The Unanimous Consent Calendar was created. An improved Calendar Wednesday, which gave ordinary bills on the calendar a chance for consideration against great privileged bills, which were used as buffers and to keep the control of business in a few hands, was established. A right to discharge all committees save one, the Committee on Rules, and thus do away in part with the iniquity of the pigeonhole, was apparently given. To practically all of these changes the Republican leadership then and now is cynically opposed. Calendar Wednesday is in both the old parties here constantly derided as "Holy Wednesday," because it is one day in the week saved to the membership of the House from the dictation of leadership. There were other crying needs for reform in the rules. There ought to be the right for a public roll call in standing committees and in the Committee of the Whole. It is in this committee, in particular, that many important votes take place. There is also a crying necessity for a change in the rules so that Members can discharge committees which have pigeonholed important propositions, for the rule which now provides this is not operative.

The pigeonhole is as potential as it ever was. Moreover, it should be in order for the House to discharge the Committee on Rules. To this great committee go many of the major propositions—propositions for important investigations, requests for consideration of proposed amendments to the Constitution, such as national equal suffrage and prohibition—and there is no way in which the House, under its present rules, can dislodge this Committee on Rules, discharge it from the consideration of a measure and take over the matter itself.

SUPPRESSING THE SUFFRAGE AMENDMENT.

The denial of American womanhood to the right to a part in the conduct of government, one of the Progressive pledges, furnishes a case in point. The record to prevent the advocates of equal suffrage from securing the submission to the people of a suffrage amendment to the Constitution has been one of the most illuminating developments of the whole Congress. For years the advocates of suffrage have sought from the Committee on the Judiciary, in Republican and Democratic Congresses, a favorable report on this amendment. In this Congress they turned for relief to the Committee on Rules, asking the creation of a committee on equal suffrage. The Democratic members of the Committee on Rules defeated the proposition, but thereafter the Judiciary Committee reported out the suffrage amendment, and it was lost in the log jam of the House Calendar. The indefatigable advocates of suffrage thereupon turned to the Committee on Rules again, asking a special rule which would lift the amendment from the calendar and permit the House to consider it. In the meanwhile the Progressive on the committee, Mr. KELLY of Pennsylvania, had succeeded in putting through that committee a resolution providing that all roll calls in committee on the suffrage amendment should be public, and the country was soon to have the opportunity of witnessing the spectacle of four men keeping the Congress from the consideration of a matter which undoubtedly a majority of the Members were anxious to take up, for when the motion was made to report a rule for the consideration of the amendment the vote stood 4 to 4. Four negative Democratic votes killed the proposition, and there is no power in the House by which the opposition can be overcome. There was thereafter an official adjournment of the Committee on Rules to July 1, 1914, to consider again the resolution for a special rule for the suffrage amendment. When that date arrived no meeting was held. It was postponed until August 1, 1914. No meeting was held August 1, 1914, and the people and Congress and the advocates of suffrage still wait the pleasure of the Democrats on the Committee on Rules, and stand defeated in their proposition to let the people decide whether or not they can change their Constitution.

The Democratic leadership is apparently determined to halt in its reform of the rules at the point it was led by the popular revolt against Cannonism by the insurgents. The Republican leadership is continually sighing for the good old days, never failing to complain of the changes that have been made and manifesting clearly the determination to return to the old order of centralized control, if the House should be given to them by the people again. This attitude among Republican leaders is best evidenced by Senator ELIHU ROOT, of New York, who recently, in an address in the Senate, in referring to the Committee on Rules of the House under Speaker Cannon, which committee then was run by three men, said that it—

> Accomplished the nearest approach to responsible parliamentary government which this country has ever seen.

This, in its essence the basis of all belief in the boss system of government, is still the desire and design of Republican leadership.

THE BIPARTISAN MACHINE AND THE LOBBY INVESTIGATION.

The Progressives at the opening of the Congress proposed changes in the rules that would further improve them, and lift the House nearer and nearer a complete realization of its representative functions—a free House of Representatives, open in all its committees, effective, powerful, and truly representative. Their proposals were rejected, a record vote refused, and the demands they made have since been pigeonholed, although on the opening day the chairman of the Committee on Rules, Mr. HENRY of Texas, in debate promised that later changes would be granted.

The use of the pigeonhole, then, is as serviceable to the Democratic leadership as it was to the Republican leadership formerly. In this, as in most vital activities, the leaders of both old parties are in desire, purpose, viewpoint, method, and accomplishment identical. And it is because of this identity between the leadership that most of their battles become sham battles, and there has grown up in the House a bipartisan machine, greatly accentuated by the presence of a third and

independent party in the House, which bipartisan machine on vital occasions can side-step any issue, and which does.

Review, for instance, the investigation of the lobby. President Wilson, during the consideration of the Underwood tariff bill, complained that that legislation was menaced by an "insidious lobby." Shortly thereafter Col. Mulhall, who formerly as the paid representative of the National Association of Manufacturers had drawn, with other agents of that concern, out of the treasury of that association over $100,000 in his political activities, came out in an article charging a former, and Republican, régime in the House with collusion with the agents of this association in preventing progressive legislation, in dictating the appointment of Members on committees, in blacklisting certain Congressmen.

An investigative committee was selected. A majority of its membership was Democratic. But when the report was made, the Democrats and Republicans on the committee signed the same report. That part of the report made no recommendation. There was ample evidence upon which the Democrats might have held their traditional opponents, the Republicans of the old machine in the House, up to public condemnation. But all signed the report. There was one dissenting voice—that of a Progressive, Mr. MACDONALD, of Michigan. He condemned in unmeasured terms the machinations of the lobby and the machine in the House which had acted with it. In the investigation it also developed that Congressman McDermott, a Democrat, of Chicago, had received certain moneys from the treasury of the federated association of dealers in liquors in the District of Columbia during the pendency of legislation in which they were interested. Mr. MACDONALD, supported by the Progressives, offered in the House, when the report was submitted, resolutions providing that the House forthwith proceed to determine whether it should censure the officers of the National Association of Manufacturers, and proceed also to determine whether it should expel Mr. McDermott. An opposing motion to refer the whole matter to the Judiciary Committee was overwhelmingly carried and the matter permanently sidetracked. The Democrats and Republicans almost unanimously supported the motion to refer. The Progressives, believing that if a record vote could be obtained the result would be different, tried in vain to get such record vote. They were not in sufficient numbers to obtain it. The Judiciary Committee finally reported in favor of the censure of Congressman McDermott. In view of the certainty that, if the motion to censure was considered, a motion would be made to expel him, he resigned. Only a minority reported in favor of the censure of the officers of the National Association of Manufacturers, and nothing further has been done in this feature of the case.

SIDETRACKING THE PRESIDENTIAL-PRIMARY BILL.

On many other occasions the Progressives have asked for record votes on vital matters, notably on their attempt to change the rules and on a tariff-commission plan; and in most of the instances neither the Democrats nor Republicans would assist them in obtaining enough to make up the one-fifth which is necessary to have the roll of Members called.

The pigeonhole as a device for effectual opposition to demanded legislation is never overlooked by the Democratic leadership. In his first regular message to Congress President Wilson, responding to the spirit of the times, urged with the greatest emphasis that Congress pass a presidential primary law. There is great opposition to this proposition on both the Democratic and Republican sides. A Progressive, Mr. HINEBAUGH, of Illinois, had already introduced a bill to inaugurate this system. His bill still sleeps in committee. The exhortation of the Executive, voicing a profound popular desire and demand, has been disregarded. If the Democratic leadership ever does decide to report a measure bearing the name of presidential primary it will be mutilated to meet the objections of those in the House who cling to the oldest forms of the doctrine of State rights and will not be the measure the country is demanding at all.

Nor is the presidential primary the only Progressive demand that is sleeping in committee pigeonholes. The Progressives introduced a bill, through Mr. CHANDLER of New York, for an easier method of changing the Constitution, a most comprehensive measure of vital importance. It is untouched. So is the Progressive bill looking to the inauguration of a practical social insurance, by Mr. KELLY of Pennsylvania. So is the farm-credit measure, by Mr. HULINGS, of Pennsylvania. So is the Progressive measure for the creation of a national bureau of employment, the Progressive child-labor bill, the Nolan bill prohibiting the shipment of convict-made goods in interstate traffic, the equal-suffrage amendment, the bill creating a commission to adjust naturalization inequalities, the tariff-commission bill, the Progressive workmen's compensation bill, and others.

PROGRESSIVES FOR EFFECTIVE MEASURES, REGARDLESS OF ORIGIN.

While the majority party has not reported out these Progressive measures for the betterment of social and industrial conditions, the Progressives in Congress have not hesitated to give their hearty support to all meritorious measures whatever their origin, as in the instance of the bill for the Government construction of a railroad in Alaska. They would battle with equal willingness if they had the opportunity for an efficient farm-credit bill, as they battled to make more effective a campaign publicity measure, and as they strove without success to take the entire Postal Service, postmasters included, out of the spoils system, as proposed in an amendment offered by me on August 1 last and overwhelmingly voted down, while at the same time the Democratic leadership was busy taking the assistant postmasters out of civil service, as they had previously kept income-tax collectors, deputy marshals, and deputy revenue collectors out of the merit system. They would battle for an effective bill prohibiting gambling in cotton futures, as they have fought against the proposition of putting off on the cotton growers of the South, under the pretense of prohibiting gambling in cotton futures, a bill which, in fact, legalizes it.

The history of the cotton futures bill in this Congress is typical of the attitude of the two old parties in meeting the demands of the people. When the Underwood tariff bill was in the Senate there was added to it by Senator CLARKE of Arkansas a radical amendment against gambling in cotton futures. When the bill, after conference, reached the House that body receded from the disagreement with the Senate on this Clarke amendment and concurred with an amendment—offered by Mr. UNDERWOOD—which, as was pointed out in debate at the time, would not prohibit gambling in cotton futures, but which would legalize it. The motion in the House to concur with the Senate's proposition with this amendment was adopted by a narrow margin. The next day, as was to be expected, the Senate disagreed to the Underwood amendment, and, without waiting for action on the part of the House, destroyed the Clarke amendment by receding from it. The following day, against protest, the House receded from its own substitute. During these discussions assurance had been given that later in the Congress a separate measure dealing with this evil would be considered. Later a bill, introduced in the Senate and amended in the House, was passed. The bill passed will not suppress gambling. It will legalize it. The Progressives in Congress made every effort in their power to have this legislation effective, not sham. The best-known method of suppressing gambling in cotton is to prohibit the use of the mails in gambling transactions. This method is efficacious; and it was this method the Democratic leadership would not employ.

A CHANCE TO SUPPRESS COTTON GAMBLING AND FAILURE.

Here we have an illuminating set of circumstances typical of the methods of the leadership of the two old political parties. Under the scourge of an acknowledged evil, hurtful morally and injurious economically, the South had cried out for a quarter of a century against the gamblers on the cotton exchanges. The protest was given hope in this plank in the last Democratic platform:

> We believe in encouraging the development of a modern system of agriculture and a systematic effort to improve the conditions of trade in farm products so as to benefit both the consumers and producers. And as an efficient means to this end, we favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges or others.

Now, the Democratic leadership which had made this pledge to suppress was at last in power. It had the Senate and the House and the Executive. Virtually all the chairmanships of the great committees are held by southern Democrats. There could be no question about control. Palpably something must be done in redemption of that pledge to the cotton growers. But the proposition at once appealed to the Democratic leadership in a new light. This had been an infamous thing before they were in power. But now that they were in power, that they could afford relief, the question was not, How much relief can we bring by stopping this evil? but the question was, How much can we appear to be carrying out the pledges of the platform without stopping the evil? Their motto as public servitors is not "How much?" but "How little?" The pledge was to suppress gambling in cotton futures. The bill passed proposes ostensibly to correct the evil. Admittedly it will do no such thing. And a year hence gambling will be flourishing as before, the cotton growers will be victimized as usual, the Democratic plank will stand unredeemed, and the Democratic leadership will be talking solemnly of the need of amendments.

What is true of their attitude on the evil of cotton gambling is true on other major legislation, notably the currency legislation, a subject I will elaborate upon a little later in my remarks.

THE TARIFF—PROGRESSIVE, DEMOCRATIC, AND REPUBLICAN RECORD.

The first effort of the Democratic leadership after their accession to power was the tariff. The demand for a revision of the Dingley tariff law arose in 1904–5, and in 1908 the Republicans pledged in their national platform a revision. In 1909 the Republican leaders revised the law upward, not downward. A wave of great popular indignation swept the country. The Democrats carried the House of Representatives and at once began a revision of the tariff, one schedule at a time. These bills went to a Republican Senate, were considered there, and were passed on to President Taft, who vetoed them. In 1913 the Democratic leadership, having gained the Senate and the White House, took up as their first performance a revision of the tariff, and, unmindful of the fate of the high-handed Republican leaders who had preceded them, they resorted at once to those methods which were under universal condemnation—secret consideration in committee, caucus cloture, and random, haphazard, guesswork revision in an omnibus bill.

For the Progressives I offered at the first meeting of the Ways and Means Committee a motion that all meetings of that committee should be open. This motion was voted down. The tariff bill was framed by the Democratic members of the committee. It was then taken before the secret Democratic caucus and approved. And as it was approved by the caucus, so it went through the House, virtually without change. No matter how meritorious an amendment was, if the caucus had not indorsed it it was anathema. Let me illustrate: When the income-tax features of the bill were reached the larger incomes were not taxed in just proportion. To effect this I offered the following amendment, which was supported by the Progressives but overwhelmingly defeated by the Democrats and Republicans:

Amend, page 134, line 1, after the figures "$100,000," by striking out the numeral "3" and inserting in lieu thereof the numeral "6."

The purpose was to increase the tax on incomes in excess of $100,000 from 3 per cent to 6 per cent. Undoubtedly a great number of Democrats were for this proposition, for when an amendment levying a tax of 6 per cent on incomes above $500,000 was added in the Senate and came back to the House the Democrats supported it.

THE PROGRESSIVE TEST ON A TARIFF COMMISSION.

The attitude of the Republican leadership during the consideration of the Underwood tariff bill was shown in the perfunctory offer of amendments, many of them carrying the old duties of the Payne law. Coupled with this activity was a criticism by the Republicans of the method by which the Democrats were considering the bill. They had for the moment forgotten that when the Payne bill with its 4,000 items was considered in the House only five amendments were permitted to be offered—on hides, lumber, barley, barley malt, and oil.

When the Underwood tariff bill reached its final stages in the House, after its third reading and before its final passage, the Republican leaders offered a motion to recommit the bill with instructions, the chief feature of which was the creation of a makeshift tariff commission. This had been offered in the Committee of the Whole as an amendment and was held to be out of order. It was certain to be held out of order in the House. The point of order was made in the House against it, it was held out of order, and no record vote was had upon it. I offered immediately to that part of the Republican instructions remaining a substitute, the chief feature of which was the provision for a revision of the tariff on facts adduced by a nonpartisan, scientific tariff commission, one schedule at a time, with a record vote on each schedule. No point of order was made against this Progressive substitute. A standing vote was taken. Speaker CLARK announced that 17 had voted for it. I protested, inasmuch as there were 19 Progressives then in the House. These Progressives were Representatives NOLAN, BELL, and STEPHENS, of California; BRYAN and FALCONER, of Washington; LAFFERTY, of Oregon; LINDBERGH, of Minnesota; WOODRUFF, of Michigan; COPLEY, HINEBAUGH, and THOMSON, of Illinois; KELLY, HULINGS, LEWIS, RUPLEY, TEMPLE, and WALTERS, of Pennsylvania; CHANDLER of New York; and myself. Mr. MACDONALD, of Michigan, had not been seated at that time. The 19 Progressives signed a paper addressed to the Speaker declaring they had voted for the Progressive substitute. Speaker CLARK announced that he had received the paper, explained the difficulty of counting standing votes, and asked unanimous consent to change the 17 to 19. This was accorded. During the contest I attempted to obtain a record vote upon my substitute. A demand of one-fifth of those present is required to obtain a record vote. We were not strong enough numerically to obtain the one-fifth. We could have secured it had we enjoyed the help of the Republican leadership. It was not given. No record vote was secured. That is, the Republican leadership, which has been loud in its protestations of advocacy of a tariff commission, when given the opportunity to vote on the commission proposition did not avail themselves of it. The omnibus Underwood tariff bill was amended 676 times in the Senate. These amendments were, of course, vital. Again, in secret, the Democratic members of the Ways and Means Committee in the House and the Democratic members of the Finance Committee in the Senate met and agreed upon the items in dispute. Then all members of the conference—the Republicans and myself, as a Progressive—were invited in, and in a perfectly perfunctory manner the 676 items in dispute were adjusted in exactly seven minutes. I was a member of the conference and made note of the time.

MAKING A RANDOM TARIFF IN SECRET.

This is the history of the Underwood tariff bill. It began in secret and ended in secret. The bill which was reported out of the Democratic portion of the Ways and Means Committee was the same bill reported out of committee, then out of caucus, and finally passed through the House. It was an omnibus bill. It could not be comprehended by the membership of the House. No single mind in the course of desultory and perfunctory debate can grasp the thousands of items which make up a tariff bill and which affect vitally every line of business in the United States.

The bill developed, however, the attitude of the three parties as to general tariff policies. The Democrats developed an anomalous attitude, based partly on a traditional belief in free trade, in this instance applied ruthlessly to the cereal farmers, a doubting desire for revenue duties, and a more or less anxious concern for protective duties where Democratic sentiment demanded them. The Republicans stood, as before, for a prohibitive protective tariff, defending the high duties of the Payne-Aldrich bill, and giving every evidence that, if restored to power, they would reenact that measure so completely repudiated by the people. The Progressives stood for a revision of the tariff, one schedule at a time, on facts adduced by a nonpartisan scientific tariff commission, with the rates of duty based, not on the prohibitive principle, but on the protective principle, under which conditions of competition between the United States and foreign countries should be equalized, both for the manufacturer and the farmer, with the maintenance of an adequate standard of living for the men and women in the industries affected by these schedules, to the end that the home market might not only be protected, but that industry might be strengthened for its conquest of foreign markets.

The Democratic tariff has done none of the things which it was claimed it would do. The Democratic leadership had claimed for years that the prevailing tariff had nurtured and maintained the great combinations which under a grant of special privilege dominated the business of the Nation and preyed upon the people. The contention was made by that leadership, over a long period of time, in campaign and out of campaign, that if the Democratic leadership were given a chance to revise the tariff, "the mother of trusts," the strangle hold of the great combinations could be broken. The Underwood tariff has been the law of the land for over a year. It has nowhere broken the power of the trusts or disturbed them. It has, on the contrary, by its disturbance of general conditions, inevitable in a random, guesswork revision, menaced the smaller and independent factors in trade to the advantage of the great and predatory combinations.

Similarly the increasing cost of living in America had long been ascribed by the Democrats to their absence from power and their inability to revise the tariff. Given that power, and the tariff revised by the Democratic leadership, and the cost of living was not reduced. It has increased.

And while neither disturbance to the great combinations nor a reduction of the cost of living followed the passage of an omnibus tariff bill, the desirable independent factors in manufacture were hurt, the farmer was injured, and the burden upon the back of labor was heaped higher.

Here then was an achievement which resulted in no good and infinite harm.

OSTENSIBLE ACCOMPLISHMENT VERSUS ACTUAL RESULTS.

But for the moment the Democratic leadership, after the enactment of the Underwood bill, evidenced much and smug satisfaction. It had revised the tariff. This attitude is an indispensable key to a correct understanding of the economic

history of the United States in the last 18 months. There was a popular demand for a revision of the tariff downward. The Republican leadership denied that demand. The Democratic leadership responded to it. And both miserably failed in results, and the Nation is interested alone in results. Under prevailing methods any political party will fail to get satisfactory results. There is only one way to revise the tariff with satisfactory results and with safety and justice to all—that is the Progressive way—the revision of the tariff one schedule at a time upon data adduced by a nonpartisan scientific tariff commission, with the rates based on the protective principle enunciated in the Progressive national platform, which I have previously set forth. The Progressives were after results, beneficial results, to all the people. The Republican leadership, true enough, wanted results—the results of a prohibitive protective tariff to the favored few. The Democratic leadership was not after results—it was set on putting through a program regardless of results. The tariff was to be revised. The Democratic platform had promised it. They revised it. This anxiety to put through a program, regardless of the effects of legislation, has characterized most of their activities on major matters in this Congress. They have been bent on keeping the word of promise to the ear, with no concern whether they broke it to the hope. They are paying the penalty to-day, for their random tariff has not fulfilled the pledge either in curbing the trusts or reducing the cost of living.

THE RETREAT FROM REAL CURRENCY REFORM.

The same impeachment lies against the Democratic leadership in the matter of currency legislation. Before the Republicans went out of power, and after the Democrats had secured the House of Representatives, a commission was appointed to investigate the Money Trust. A majority of this commission were Democrats. After full and complete investigation these Democrats found that a Money Trust existed; that it held its tremendous power over credit in the United States by certain well-defined, pernicious practices in Wall Street. These Democrats made an exhaustive report to Congress and they embodied in their report, specifically and in terms, amendments to the laws designed to break up the Money Trust. But when the new currency bill was in preparation these recommendations were shoved aside. As a framework to the new currency measure, the plan, known as the Aldrich plan, which with its 50-year franchise to a central bank had been generally condemned, was liberally drawn upon.

The bill as reported out of the committee was considered in secret Democratic caucus. It is reported that an effort was made in the caucus to incorporate in the new measure some of the recommendations of the Money Trust commission, including the prohibition of interlocking directorates. These were voted down. When the bill reached the House it was given the same perfunctory consideration which had characterized the tariff bill. For the Progressives I offered the amendments which the Democratic Money Trust commission had recommended. These amendments were voted down by Democrats and Republicans. The Democratic leadership, so far as currency legislation was concerned, was taking a mincing, timid half step when in power, where a year before, out of power, it had pointed the way to complete remedy and had criticized its opponents for not taking the full step. Legislation for farm loans, properly a part of this legislation and urgently demanded everywhere, was barred out. The currency bill, a bank bill which provides for the creation of Government money, redeemable by the Government, issued to the banker at a low per cent, money based on his assets, money to be loaned by him to his customers at any per cent he desires, was passed. Although there was much long and eloquent speech making that one of the purposes of the bill was to reduce the power of New York City over credits, among the men selected as a member of the controlling Reserve Board was a Wall Street banker, Mr. Warburg, popularly reputed to be the author of the old Aldrich plan. As part of the new currency law the old Republican Aldrich-Vreeland emergency currency measure was included. This provided for an emergency currency to an amount not exceeding $500,000,000. This law was bitterly condemned by the Democratic leadership at the time of its passage. Now, it was taken over and the rate of interest to be charged the banker for its use reduced. Recently this part of the new currency law was amended in the House over my protest by removing the limit of $500,000,000 and making the amount that may be issued unlimited. And in one week recently the bankers took out $165,000,000 of this emergency currency, at a cost of 3 per cent to them, when call money in New York was 8 per cent and clearing-house certificates 6 per cent.

The farm credit currency measure still sleeps in committee. The provision in the currency bill that passed which provided for loans by banks on farm lands is a pretense. It does not operate. It will not. The bankers know this. The farmers are discovering it.

When the currency bill was before the House for final passage, Mr. WALTERS, of Pennsylvania, offered for the Progressives an amendment prohibiting interlocking directorates. A record vote was obtained. The proposition received only 101 votes and was lost.

THE FEEBLE DEMOCRATIC ATTEMPT AT ANTITRUST LEGISLATION.

When the trust proposition was brought before the Congress for consideration the Democratic leadership in the House presented three propositions: (1) The creation of a trade commission, (2) regulation of the issue of stocks and bonds of interstate carriers, and (3) amendments to the Sherman antitrust law, seeking to give further definitions to the courts under that act. The trade commission proposed by the Democrats in the House was a purely investigative commission without adequate power. The amendments to the Sherman antitrust law were mostly random, groping provisions which, if they became law, would further confuse and muddle the whole question. It was plain that if the question was to be handled effectively at all, and the country saved from further depredations by the great monopolies, it was necessary that the whole subject be approached with a determination to avoid damaging delay in the courts, and to bring to bear upon the whole question sanely constructive solutions of the problem. The dissolution of the Standard Oil Co. and the Tobacco Trust, which resulted, not in dissolution, but in advantage to those in control of these commercial monsters, challenged every publicist. Plainly, to follow in the direction in which the Democratic leadership led was to travel the old useless circle from the doubting Congress to the hesitant Attorney General, to the delaying courts, and back to Congress again. So I offered for the Progressives a concrete, comprehensive, and constructive plan for the solution of the problem. The plan was embodied in three bills.

These three bills do not confound big business and monopoly. They do not attack the form of monopoly, but they do attack its substance. They recognize that there are monopolies which have grown from natural causes and monopolies that have grown from unnatural and illegal practices. They eliminate both kinds of monopolies. They recognize the beneficence of cooperation, but they differentiate between beneficent cooperation and the deadly forces of monopolistic combination; and they would give honest business full information as to just what it can and what it can not legally and properly do.

The Progressive bills, in a word, provided for a strong administrative trade commission with power to find the facts and to act upon them; with the business of directly determining the existence of monopoly, the basis of that monopoly, and the manner of suppressing that monopoly. The first Progressive antitrust measure created a strong trade commission. The proposed Democratic trade commission was a feeble board with nothing more than investigative powers and dependent upon the virtues of an optional publicity which an existing Bureau of Corporations has invoked for years in vain. The second Progressive bill gives the trade commission power to order an offending corporation to desist from unfair trade practices, which are defined, and, upon the corporation's refusal to do so, provides that the commission may apply to the courts for the enforcement of its orders. The third Progressive antitrust measure provides that whenever a corporation exercises control over a sufficient portion of a given industry or over sufficient factors therein to determine the price policy in that industry the commission may determine that such concern exercises substantially monopolistic power, which power is declared to be contrary to public policy. Having so determined, the commission is then empowered to determine upon what basis this monopolistic power rests—artificial bases or natural bases. Artificial bases are acts of unfair competition, which are defined; natural bases are the control of natural resources, of transportation facilities, of financial resources, of any economic condition inherent in the character of the industry, including patent rights. If the monopoly should rest on artificial bases, the commission is empowered to order the concern to desist from its acts of unfair competition and to call upon the courts to enforce its orders. If the monopoly should rest on natural bases, it is made the duty of the commission to issue an order specifying such changes in the organization, conduct, or management of the monopoly as will promptly terminate the monopoly. If the monopoly resists the order of the commission, then the commission may apply to the courts for the appointment of a supervisor for such concern, with power to carry into effect the commission's orders.

This is, in brief, the Progressive plan. It was simple, direct, and constructive.

THE PROGRESSIVES, THE DEMOCRATS, THE REPUBLICANS, AND THE TRUSTS.

The Democratic proposal, a feeble commission and added definitions to the Sherman antitrust law, left the whole problem to the courts. The proposal was blind, timid, hesitant, halfway.

The Republican leadership offered nothing. It apparently favored further exposition by the courts of the Sherman antitrust law as it stands.

The attitude of the Democratic leadership has been that of the blind leading the blind. The attitude of Republican leadership that of those who had determined to stand pat and stand still. The Progressives pointed a new, straight, direct way to an adequate solution of the problem. When the Democratic proposals were under consideration I offered the Progressive propositions. They were voted down. On the passage of the Democratic trade commission measure I offered the strong Progressive trade commission proposal. It was rejected.

THE TARIFF, THE CURRENCY, AND THE ANTITRUST RECORD.

I have given the legislative history of three major measures in the House.

In the case of the tariff bill the Progressive tariff commission plan offered to the House was not supported by the Republican leadership, which is loud in its advocacy of such a commission.

In the case of the currency bill the strong amendments prepared by the Democrats of the Money Trust Commission were offered in the House by the Progressives and the Democratic leadership rejected them.

In the case of the antitrust bills the strong, clear, comprehensive, constructive measures offered by the Progressives were opposed by the Democratic leadership, which was groping, and the Republican leadership, which was stationary.

THE MISSION OF THE PROGRESSIVE PARTY.

Through all these issues and the contests which have grown out of them the Democratic leadership has been constructive only in so far as it was necessary to consummate a program, to do something and to declare it done. The Republican leadership has carried its party into a negative position, where its chief activity has been largely a lively hope of future party prosperity through the mistakes of the Democratic majority.

The one party has played to retain its party power. The other has played to regain its party power. The Progressives have sought to serve all the people, regardless of party or party power.

Far from exercising mere partisan opposition, the Members of the Progressive Party have introduced in the House the practice of giving whole-hearted support to desirable legislation, no matter what its origin. They supported the Cullop amendment, providing that the President make public all indorsements of applicants for judicial place, a Democratic pledge which Democratic leadership has repudiated. They supported the Alaskan railroad bill. They have fought to make all conservation measures more effective. They have advocated adequate appropriations for the new Children's Bureau, which were being withheld. They opposed with virtually a united front the proposition to surrender to Great Britain our sovereign rights in the Panama Canal. They have at all times exercised the right to vote as they believed they should vote, without trammel of party caucus, without let or hindrance of party prejudice. And they have been first in the initiation of constructive legislation for the advancement of the democracy.

For the Progressive Party has endeavored to have Congress write into concrete terms of law exact justice; to establish direct popular government, so that the people, and the people alone, shall rule; to frame in the open, sanely, understandingly, a tariff which would not only maintain prosperity but pass prosperity around; to institute currency reforms which would destroy the tyranny of the credit monopoly and grant special privilege in money issues to none; to enact antitrust laws that would be at once destructive to dishonest business and a guide and protection to honest industry and commerce. The Progressive Party has offered in fulfillment of its covenant with the people, made in its national platform of 1912, measures for the betterment of industrial and economic conditions, measures to establish social and industrial justice, measures to make representative government more effective and more responsible. It has placed right above wrong, justice above injustice, national need above sectional advantage, the public weal above private profit, and man above mammon. It deserves no less credit because its proposals have been rejected, for, moved by the high ideals and the aspirations which gave it birth, it is marching on, confident that service will triumph over sham, light over darkness, that truth will prevail against technicality, that patriotism will eventually overslaugh partisanship, confident that the people, through a new party, willing to serve and to give to the Government in full measure the devotion which will bring to all men and women complete representation and a square deal, will come at last into their own.

Mr. RAKER. Mr. Chairman, on the amendment offered by the gentleman from Wyoming there is practically one important matter that is involved after the general understanding of what can be done is agreed upon. The gentleman from Wyoming, and, in fact, all so far, concede that the Government can sell or lease its public domain upon conditions the same as a private individual may lease or sell his holdings, under conditions. That being agreed upon—and I understand the gentleman from Wyoming concurs in it—the question then comes whether or not the amendment of the gentleman from Wyoming is wise in a State where the entire plant is located and where the entire output is to be sold.

This bill provides, in section 9, that if there is a public-service commission in that State it fixes the price that the consumer is to pay. It fixes the question of the relation of the issues of bonds and stock; in other words, regulates it as a public utility for the interest of the consumers.

Now, having come to the conclusion or determination that the Government may lease its land to be used in developing a power plant, which plant, perchance, is located in the corner of some one State, it is of necessity, without any extension—or in its ordinary force would be—in two or three or four States. There are many cities located on the border, part of the city in one State and part in another, and some in three States, and others that are very close to the border. The purpose of the bill as reported by the committee is that the Government, having the ownership of the land, and the line going into several States, may regulate the question of the price to the consumers, so that all under that system would be treated alike, notwithstanding they may be but a few miles apart, one in one State and one in another, and that the question of the issuance of the bonds and stock would all be under the control of the one power. Without any national law, the committee believed that the Secretary of the Interior, representing the Government, should stipulate that when you accept this lease you must comply with a condition fixed therein as to supplying power to your consumers in two States if it goes into two States, as well as to the issuance of bonds and stocks, so that, as stated, all would be under that one service, although they may run in two States, and the consumers would be treated alike and receive power at the same price.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. MONDELL. Does the gentleman contend that a private individual leasing land for power purposes could legally make it a condition of the lease that if the power was delivered in more than one State the public-service commission of the State could not have any control over the enterprise?

Mr. RAKER. No; I do not make any such contention as that.

Mr. MONDELL. That is what the bill does.

Mr. RAKER. No; I do not think so.

Mr. MONDELL. It says the Secretary of the Interior shall control.

Mr. RAKER. I believe, notwithstanding our attempt to legislate here upon a condition fixed in the lease, because of the fact that the Government owns the land, if a man installs a complete plant to furnish electric energy to a city or community, he then comes under the law of the State, if there is one in that State, as to furnishing electric energy for those who receive it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming [Mr. MONDELL] offers an amendment to the first part of section 3, which takes away from the Federal Government all of the right it has to control the water powers generated on its own lands. I have carefully copied and read the amendment of the gentleman, and it is carefully worded, being clipped from some other bill he introduced, and surely the House does not want to adopt it or any other amendment like it. I call attention to the fact that five or six of the Western States have no public utility commissions at all. I want to know who in fact would regulate the charges for water powers in those States. There can be but one answer to that, and that is they would escape any regulation at all. Again, it is a matter of the gravest sort—and I do not think any considerable portion of the House would think of doing it—to absolutely cut off

all of the right of the Federal Government to control what goes on on its own property.

Listen to what the gentleman's amendment provides:

That all leases shall be granted upon the condition and subject to the reservation that at all times during the use and enjoyment thereof, and of the water appropriated and used in connection therewith, the service and charges therefor, including all electric power generated or used in connection therewith, shall be subject to the regulation and control of the State within which the same is used and subject to the fixing of the rates and charges for the use thereof and the issue of securities by such State or under its authority.

The moment the transmission line carrying electricity crosses the State line, then if they had a public utility commission the State would lose control; but in those States where they have no public utility commissions, and there are four or five or six of them, I want to know who would control the water-power companies?

Mr. MONDELL. The gentleman understands that under my amendment the State in which the power was used would have complete control.

Mr. FERRIS. In the bill a later section provides that where the power is generated in a State and used in a State, and the State had a public utility commission, the public utility commission governs; but in a State where there is no public utility commission, and doing interstate business, I ask, under the gentleman's amendment, where we would have any regulation at all. There are some people who will even object to allowing the State public utility commission to control, even on strictly intra business, but surely everyone who is friendly to legislation of this sort and who is at all favorable to Federal control of water power would be opposed to the gentleman's amendment.

I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming.

The question was taken; and on a division (demanded by Mr. MONDELL) there were—ayes 1, noes 20.

So the amendment was rejected.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I do it especially to inquire as to the reason that prompted the committee in permitting the authorization of combination of plants and of these various distributing lines.

Mr. FERRIS. Mr. Chairman, that amendment on its face would to one who had not given it consideration seem subject to criticism; but I can do no better than call the gentleman's attention to the proposition where two or three little power companies with small dam sites are required to make up a complete system of electric lighting in a city. It would certainly be folly and duplication of work and expense, as was shown by the best authorities that appeared before us, including ex-Secretary Fisher and others, to have two or three companies dabbling away at it, just like a duplicate telephone system in a town. The gentleman no doubt has towns in his district where two companies are dabbling at the telephone business, neither of which can give good service, but both of which are trying to give duplicate service. If you go to a telephone and call up somebody, they tell you that it is on the other line. Therefore every business man in the town puts in telephones of the two telephone companies for certain service. So it is necessary in the interest of good administration, as urged by all the authorities who appeared before us, engineers, and so forth, to say that in one case it is necessary, while in the other case it is vicious to have such a combination.

Mr. STAFFORD. I can understand, so far as the illustration in reference to the telephone companies is concerned, as to the need of having but one telephone system in a municipality in reference to a service which they both serve, but under the authorization as here given I can conceive that it might be gravely abused, for here is authorization for a combination, as you may say, or for one gigantic trust to generate electric power. The very purpose we are seeking after is to establish competing generating plants, where there is a public demand, under public supervision and control; and yet here——

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAFFORD. I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin? [After a pause.] The Chair hears none.

Mr. STAFFORD. Under this authority you are giving the Secretary the power of allowing all these plants to be combined into one gigantic water-power trust.

Mr. FERRIS. Will the gentleman yield?

Mr. STAFFORD. While that is hard to conceive, yet I can realize how it may be abused by some Secretary, or through influence and connivance with subordinate officials in control. I yield to the gentleman, but I desire to ask him another question.

Mr. FERRIS. I want to call attention to the last part of the paragraph, which expressly prevents and prohibits combinations when there is anything tending to monopoly or agreement to raise prices and other various things mentioned; in other words, to increase the prices of electric energy.

Mr. STAFFORD. But the gentleman knows that all of these combinations claim that they are not for the purpose of raising prices, and yet we know that the monopoly is for the purpose of getting a large profit and ultimately raising prices. They are claiming, of course, that it does not raise prices. The gentleman anticipated me, because I want to ask him why should we in this bill try to supplement the Sherman antitrust law in the provision which was referred to by the gentleman? What is the need of that qualification? It says that combinations, agreements, arrangements, or understandings, expressed or implied, to limit the output of electrical energy are hereby forbidden. In fact, such practices are forbidden under the Sherman antitrust law. The Supreme Court has construed that law. It is a matter of serious concern whether we should add to or supplement the Sherman antitrust law when there is nothing gained and much confusion may result by inserting it. Does not the gentleman believe that the Sherman antitrust law would apply without that qualifying language?

Mr. FERRIS. Probably, yes; if the gentleman will pardon me, but water power is in its infancy. Twenty-four years ago there was no such thing as water power generating electricity. The first plant was stationed in Colorado in 1890, 24 years ago. I think the gentleman, good lawyer that he is, will always recognize the fact it is better to have the laws all incorporated together, all reading together, and all construed together and standing as a legal entity.

Mr. STAFFORD. The gentleman will realize that the Sherman antitrust law has a well-defined application and a well-defined construction, and though not intended originally to apply to water powers, because not then in existence, they are included in its application and extent. I question very seriously whether we should attempt by special legislation to supersede or supplement the Sherman antitrust law when it is understood that that law fully applies to such a combination.

Mr. BRYAN. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. BRYAN. Does not the gentleman believe that if this added clause which he complains about is not included in the proviso the first part of the proviso will probably have the effect of repealing the Sherman antitrust law in so far as water power is concerned?

Mr. STAFFORD. Not at all. The first part of the proviso only applies to the physical combination of plants and of lines; nothing more; and it is in that part of the proviso which forbids combination, monopolies, and unlawful agreements and discrimination that you are applying language that has not been construed by the Supreme Court; you are placing in here a provision that has never been interpreted by the court.

Mr. BRYAN. It seems to me the clause beginning with the word "but" there shuts out what would be an attempt on the part of water-power users to say this act repeals the Sherman antitrust law.

Mr. STAFFORD. The gentleman recognizes the court would construe this as supplementing and virtually superseding the Sherman antitrust law, and that there will be another suspense as to the interpretation to be given to this provision by the courts, and it might be held that the Sherman law had been superseded and not considered as applicable.

Mr. BRYAN. That will not hurt anybody who believes in the enforcement of the law.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. CLINE. I want to ask for a little information, Mr. Chairman.

Mr. STAFFORD. I withdraw the pro forma amendment.

Mr. CLINE. Mr. Chairman, I speak in opposition to the amendment offered by the gentleman from Wisconsin.

Under this provision that prohibits combinations, does this bill, or this particular section of the bill, meet, for instance, this situation: I have in mind a company that generates electricity. That company sells the electricity and has nothing to do with the transmission of it. It sells it to a transmitting company. The transmitting company has nothing whatever to do with the generation of the electricity and nothing to do with the distributing of it, but that company sells to a third company, which is a distributing company. Of course, it is evident, especially where the majority of the directors belong to each indi-

vidual company, and yet each company is organized under the State in which it exists as a separate and distinct corporation, that that must tend to increase the charge which the consumer must pay. Does this particular section meet that condition?

Mr. FERRIS. They can not sell more than 50 per cent of the power to anyone, and there is a section later on that prevents them from selling to anyone else except with the consent of the Secretary of the Interior.

Mr. CLINE. It can not sell to a holding company?

Mr. FERRIS. Not without the consent of the Secretary of the Interior.

Mr. CLINE. I am referring to the section now under consideration. These companies are absolutely distinct organizations, organized in the State in which they are operated, and have no relation whatever to each other in the generation, transmission, or distribution of electricity. My inquiry is whether this section will meet that condition? Neither one of the companies is a holding company for the other two.

Mr. FERRIS. Let me call the attention to section 4, where it says:

> That except upon the written consent of the Secretary of the Interior no sale or delivery of power shall be made to a distributing company, except in case of an emergency, and then only for a period not exceeding 30 days, nor shall any lease issued under this act be assignable or transferable without such written consent.

The thought we had in mind was exactly what the gentleman thinks—that they might peddle it around to a distributing company and on to another distributing company, until it would be hard to fix the responsibility and rate of charges. Our thought was that each time when they sought to do it, if they had to come in and get authority, the Secretary could guard the conditions under which the transfer was made and could control the service and rates, and still keep the power well guarded in the interests of the public.

Mr. CLINE. It is not practicable for a generating company to transmit and distribute the electricity.

Mr. FERRIS. I take it the gentleman does not make that as a uniform condition, but in many cases it is true.

Mr. CLINE. If that be true—of course, it is the information of the chairman—I understand that a company generating hydroelectricity could generate it, transmit it, and sell it to the consumer?

Mr. FERRIS. Not necessarily that. We do think it necessary for them to get permission so to do before it is done, so that the Secretary who grants that authority can see to it that all of the interests are guarded.

Mr. CLINE. And if they get that permission, the Secretary of the Interior would sufficiently scrutinize the application so as to prohibit any increase of prices unduly to the consumer?

Mr. FERRIS. The thought of the committee was that he specially should have that responsibility, it being necessary for him to pass upon the advisability of the sale and insert and incorporate in the assignment such conditions and regulations and constraints as would protect the consumers and the public.

Mr. SCOTT. Mr. Chairman, I observe that section 3 confers upon the Secretary of the Interior the power to regulate and control the service, charge for service, and issue of stocks and bonds. I would like to ask the chairman of the committee whether it is his understanding that the language as to regulation and control involves the power to initiate and fix the rates charged consumers?

Mr. FERRIS. Does the gentleman desire an answer at this point?

Mr. SCOTT. Yes.

Mr. FERRIS. Our thought was very clear that the Secretary had the right to fix the rate and would fix the rate at the inception of the contract, which would be incorporated in the lease, and which would enable him to regulate it from time to time as the facts might warrant.

Mr. SCOTT And under this law the lessee would have no power to originate and fix a rate?

Mr. FERRIS. That is very true; and it being a public utility—and I think that theory is pretty generally accepted now—they would be subject to regulation from the start, and at the finish, and at all intervening points.

Mr. SCOTT. I am not speaking of the regulation. I am speaking of the power to fix the rate being vested in the Secretary and being withheld from the lessee.

Mr. FERRIS. Does the gentleman think the power to regulate involves the question of fixing the rate?

Mr. SCOTT. Possibly the right to control might involve the right to fix. Assuming that this law does vest in the Secretary of the Interior the right to initiate and fix the original rate, will the chairman tell me what is meant by this latter clause in the section which prohibits the joint lessees from entering into agreements to fix or to maintain or to raise rates? If they have no power whatever to originate or initiate a rate, what office does this prohibition against this fixing the rate in the latter part of the section serve?

Mr. FERRIS. The gentleman is fully aware that all public utilities, railroads, telephones, and all carriers, have no right to fix rates in toto, but they are all subject to the jurisdiction of the Interstate Commerce Commission. While the Sherman antitrust law and the various amendments that have been added to it were all for the express purpose of keeping down trade agreements that oppress the public.

Mr. SCOTT. I am aware of the contrary proposition that a railroad has the power to fix a rate, the power in the Interstate Commerce Commission being only to regulate the rate so fixed.

Mr. FERRIS. Oh, well, that amounts to the same thing.

Mr. SCOTT. Oh, no.

Mr. FERRIS. If the Interstate Commerce Commission has the power to sweep away at any moment the rate charged, to raise it or lower it or remove it, what difference does it make who puts in the original rate or schedule of the original contract, or what difference is it who says what shall be charged on the first day it starts up? The test is who really has power to regulate it, fix it, and so forth.

Mr. SCOTT. The Interstate Commerce Commission in the case of railroads has no such power as the gentleman suggests. What I am at a loss to know is, Where is the power vested to fix the original rate? Is it in the lessee or in the Secretary?

Mr. FERRIS. Certainly it is not in the lessee, and nobody would want it to be in the lessee. To do that would be to be without regulation at all.

Mr. SCOTT. What possible influence can this latter provision have which prohibits the raising or the fixing or the combining to maintain? Is not that wholly superfluous? When could it be invoked?

Mr. FERRIS. I think not at all.

Mr. SCOTT. When could it be invoked, and under what circumstances?

Mr. FERRIS. Does the gentleman want to place his sanction upon two power companies getting together to restrain trade, or to limit the amount of electrical power generated, or to enter into a gentleman's agreement to oppress the public and raise the price to an unconscionable degree?

Mr. SCOTT. Oh, no.

Mr. FERRIS. And the gentleman would not place a ban upon the proposition to break down such a practice?

Mr. SCOTT. That could not arise unless the power were vested in the lessee.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Iowa [Mr. SCOTT] asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. SCOTT. Yes.

Mr. RAKER. Under the statement made by the gentleman from Iowa there would be unquestionably no necessity for the latter provision, because both corporations would be regulated as to the price they would charge to the consumer. But here is only one corporation, or one individual, obtaining this right from the Government. It is true there may be another on the other side that desires to connect, that did not obtain its rights or any part of them from the Government.

Mr. SCOTT. Then it would not fall within this section. This section provides for two companies that receive their leases by reason of the provisions of this law.

Mr. RAKER. It does not mean that.

Mr. SCOTT. It plainly says so. It says, "The physical combination of plants or lines for the generation," and so forth, "under this act." If anyone can tell me or can conceive of a case that could possibly arise that would meet that provision, unless the lessee has the right to fix the rate at some time, I would like him to do it.

Mr. RAKER. Can not the gentleman conceive of a plant that does not obtain its right under the Government? One other plant might obtain its rights from the Government, and the two might combine.

Mr. SCOTT. Not under this section. This section permits the combination of the physical plants which have been constructed under this law, and those only, and therefore it can only apply to those plants.

Mr. RAKER. What is the gentleman's contention?

Mr. SCOTT. My contention is that either one of two propositions is true: Either the power to initiate the rate rests with the lessee or the latter proviso is meaningless.

Mr. RAKER. This refers to only the physical combination.

Mr. SCOTT. No; it refers to the combination to raise and fix rates.

Mr. RAKER. You are speaking of the proviso, the first part?

Mr. SCOTT. And therefore the courts will not adopt an interpretation of the law which renders half of the provisions of the law meaningless unless forced to do so. Therefore it seems to me the courts would interpret "regulation and control" in the same way that they interpret it in the interstate-commerce law, and not so as to give the power to initiate the rate. It is simply a question as to whether this law would confer a greater power in the Government of fixing rates here than the present Interstate Commerce Commission act does upon the commission. Our commission, you know, can not initiate the rate.

Mr. FERRIS. Mr. Chairman, let me interrupt the gentleman. The gentleman is troubled about the proposition. The gentleman knows that in a railroad proposition they fix up the schedule of rates and submit it, and the Interstate Commerce Commission can accept it or reject it. The power is really in the Interstate Commerce Commission and not in the railroads at all.

Mr. SCOTT. No; I do not know anything of the kind. I know the railroads can fix up the tariffs and file them under the law with the Interstate Commerce Commission.

Mr. FERRIS. And the Interstate Commerce Commission can change them.

Mr. SCOTT. Not until they are attacked. They must attack the tariff. They can not initiate the rate.

Mr. FERRIS. Does not the gentleman think that that language, if stripped of all flimsy fancy, means that the party fixes the rate who has the power to raise or lower the rate? To say that the Interstate Commerce Commission comes in and raises or lowers the schedule is, to my mind, nothing more than an application of the fact that the Interstate Commerce Commission can state what the rate shall be. I can not grasp the technical views of the gentleman when he continues to argue who initiates the rate. To me it is a question of who has power to fix it, to change it; in short, to make it what it should be. The Interstate Commerce Commission can sweep them away or change them—lower or raise them.

Mr. SCOTT. There may be nothing in that contention. However, the railroad companies of this country for nearly 25 years thought there was a great deal in it, and they maintained constant litigation and contention over that point for years.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. SCOTT] has expired.

Mr. FERRIS. How much further time is desired on this section?

Mr. MONDELL. I will say to the gentleman that I have two amendments to offer.

Mr. FERRIS. How much time does the gentleman desire? We must get on.

Mr. STAFFORD. I should like five minutes.

Mr. MONDELL. Let me say to the gentleman from Oklahoma that I do not believe it will be possible to arrange for closing the debate on the entire section at this time.

Mr. FERRIS. I think we ought to.

Mr. MONDELL. I have two amendments.

Mr. FERRIS. How much time does the gentleman desire?

Mr. MONDELL. No one knows how much time will be required on these amendments.

Mr. SMITH of Minnesota. I should like 10 minutes on the whole section.

Mr. STAFFORD. I suggest, if the gentleman from Minnesota is going to speak generally on the section, let him speak, and then let the gentleman from Wyoming offer his amendment.

Mr. MONDELL. I shall ask five minutes on each of my amendments.

Mr. FERRIS. I wish the gentleman would let the amendments be read for information, and then let us fix the time. Is the gentleman willing to do that?

Mr. MONDELL. I shall be glad to send up my first amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. SMITH] has the floor.

Mr. FERRIS. He yields for that purpose.

Mr. SMITH of Minnesota. I yield for that purpose, but not out of my time.

Mr. FERRIS. I ask unanimous consent that the two amendments of the gentleman from Wyoming [Mr. MONDELL] be read for information, so that we may then try to fix a limit of time on the paragraph.

The CHAIRMAN. Does the gentleman from Minnesota yield the floor for that purpose?

Mr. SMITH of Minnesota. I do.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] asks that the two amendments to be proposed by the gentleman from Wyoming [Mr. MONDELL] be read for the information of the committee.

Mr. MONDELL. I have only one prepared, Mr. Chairman, which is to strike out, after the word "provided," in lines 2 and 3, on page 4.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 4, after the word "provided," in line 3, strike out the following words: "That the physical combination of plants or lines for the generation, distribution, and use of power or energy under this act or under leases given hereunder may be permitted, in the discretion of the Secretary."

Mr. FERRIS. Is that the only amendment?

The CHAIRMAN. The gentleman from Wyoming stated that he had two amendments.

Mr. MONDELL. I have not the other amendment prepared at this time.

Mr. FERRIS. Is the gentleman willing to close debate on this, and let the other one be offered and voted on?

Mr. MONDELL. If I can have 10 minutes, I am perfectly willing to take the 10 minutes on the two amendments when I offer the other one.

Mr. FERRIS. I ask unanimous consent that at the expiration of 30 minutes debate on this amendment and all amendments to this section be closed.

Mr. STAFFORD. It is very hot and oppressive to-day. We have hardly more than the membership of the gentleman's committee present.

Mr. FERRIS. We do not have to finish to-day. Let us get the debate closed.

Mr. STAFFORD. I hope the gentleman will not press that.

Mr. FERRIS. I ask unanimous consent to close debate on the amendment and all amendments to the section at the end of 30 minutes.

Mr. STAFFORD. I think I shall have to object to that.

Mr. FERRIS. That will carry it only to 10 minutes after 5 o'clock.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to close debate on this amendment and all amendments to the section in 30 minutes. Is there objection?

Mr. STAFFORD. I object.

The CHAIRMAN. The gentleman from Wisconsin objects. The gentleman from Minnesota [Mr. SMITH] has one minute remaining.

Mr. SMITH of Minnesota. Mr. Chairman, I ask unanimous consent that I may proceed for 10 minutes.

Mr. RAKER. What is the amendment to which the gentleman is speaking?

The CHAIRMAN. The gentleman from Minnesota moved to strike out the last word, and he has one minute remaining, and he asks unanimous consent that his time be extended for 10 minutes. Is there objection? [After a pause.] The Chair hears none, and the gentleman from Minnesota is recognized for 11 minutes.

Mr. SMITH of Minnesota. Mr. Chairman, the legal status of this question has been discussed by my colleague from Minnesota [Mr. MILLER] in a way that brought out some important legal questions. I do not believe that there is any doubt in the mind of any member of the committee as to the proposition that the National Government has control of the navigable rivers from the mouth to the source for the purpose of regulating commerce and navigation, and that Congress has an incidental right to provide for the erection of dams and to grant that right to others if it sees fit. If this is a correct statement of the law, then Congress has not the constitutional right to provide by law that the Secretary of the Interior or any other person may dispose of the water powers on the public domain located in any State of this Union.

In all acts authorizing State governments Congress has declared that the rivers therein or waters leading into the same shall be common highways and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor. Therefore by this reservation Congress reserves to itself the right to make all needful rules and regulations necessary to secure the navigability of the rivers of a State and the waters leading into these rivers and as the incidental right to permit dams to be erected in such rivers. Furthermore, it is contended, and I think rightly, that in granting a permit to erect a dam in a

navigable river Congress has the right to exact certain conditions.

Hence it is quite evident that the Secretary of the Interior, who has the right to make all necessary rules and regulations concerning public land within a State, has no right to interfere with the flow of a navigable river or a stream entering into a navigable river that may pass through the public domain, unless Congress has the power to grant such right, and how can it be claimed that Congress has such power when Congress has expressly declared to the contrary in admitting the State to the Union?

This rule, of course, would not apply where reservoirs are erected upon the public domain or where the public domain has a stream that does not flow into a navigable river; but I take it that there are but few such reservoirs or streams, and the bill under consideration attempts to regulate both navigable rivers and streams entering into the same and reservoirs and purely local streams.

But by a tacit agreement between the Committee on Interstate and Foreign Commerce, that has control of legislation affecting navigable streams, and the Committee on the Public Lands the constitutions of States are to be set aside and a divided control over hydroelectric development is to be established for the sake of harmony among the different departments of our Government, such as the Department of the Interior, the Secretary of War, as well as the Interstate and Foreign Commerce Committee, the Committee on the Public Lands, and the Committee on Rivers and Harbors of the House, all to the detriment of hydroelectric development.

It would seem the part of wisdom to permit the Committee on Interstate and Foreign Commerce to have jurisdiction over the navigable rivers and the waters leading into the same, and that the Secretary of the Interior have jurisdiction over reservoirs and streams wholly within the public domain. Such a division of authority and control would have a logical basis. But the present method of dealing with the subject is illogical, unwise, and detrimental to the very object it seeks to accomplish.

Mr. RAKER. What particular thing in the bill relative to the disposition of the public land does the gentleman believe that Congress has not the power to dispose of?

Mr. SMITH of Minnesota. It is my opinion that the waters in the rivers of a State belong to the State.

Mr. RAKER. This bill rejects all the waters in the State; it does not relate to them.

Mr. SMITH of Minnesota. These waters are all within the confines of the State, even though they are on the public domain, and the only power Congress has to legislate in matters of this kind it derives from its right to exercise jurisdiction over commerce and navigation. It is an incidental right on a navigable stream, and that navigable stream commences at its mouth and ends at it source. In the legislation proposed in the pending bill we are cutting that proposition right in two; we are turning over one half of the power of Congress over navigable rivers to the Interstate Commerce Committee and the Secretary of War and the other half to the Committee on the Public Lands and the Secretary of the Interior.

Mr. RAKER. Does the gentleman take into consideration section 14 of the bill?

Mr. SMITH of Minnesota. Yes; I am taking into consideration this bill and the bill that preceded it. It is practically the same sort of legislation, legislation on the same subject. We are dividing the proposition, making double work and accomplishing but little.

Mr. RAKER. Will the gentleman yield for one more question, and then I will not trouble him again? In that broad statement that Congress has the power in the general dam bill that was passed, known as the Adamson dam bill, over a river commencing at the mouth and running through all the various branches of the stream to the trickling spring in the mountain—if that is a fact, there would be no necessity for further legislation.

Mr. SMITH of Minnesota. Congress's authority over navigable streams is limited to navigation and rights incidental thereto. The other rights and benefits of the stream belong to the State. That is the proposition I lay down.

The bill under consideration provides that the Secretary of the Interior is authorized and empowered to issue leases under such terms, conditions, and general regulations as he may prescribe to construct, maintain, and operate dams, water conduits, reservoirs, power houses, transmission lines, and other works necessary and convenient to the development, generation, transmission, and utilization of hydroelectric power within the boundary of the public domain; and these boundaries contain those headwaters and lands which the Adamson bill of the Interstate Commerce Committee placed under the control of the Secretary of War and the Chief of Engineers. Thus we have a divided control of navigable rivers and their headwaters.

The development of hydroelectric power has been in progress but 24 years. Therefore it is not surprising that we find such great difference of opinion as to what kind of legislation is necessary to develop this natural resource as rapidly as possible and at the same time protect the rights of those who use electric current. However, it should be apparent to anyone who has given the subject serious thought and consideration that the proposition is indivisible, and whatever law is passed for its regulation and control should be a unit.

Section 3 provides that different plants may combine, and in another section of the bill it is provided that the Secretary of the Interior is authorized and empowered to prescribe rates and service where the current enters into interstate commerce. When you give such power to an aggregation of allied hydroelectric-power corporations, such as the General Electric or the Stone & Webster, which may extend their operations over a stretch of adjoining States in a period in which, as stated by the Commissioner of Corporations, such electric group may operate over a contiguous area of 1,000 square miles, no one can effectively dispute their claim that current is interstate and that thereby, under the provisions of this bill, subject only to the regulations of the Secretary of the Interior.

Such a condition would render null and void all attempts of States and municipalities under present laws and charters to regulate such electric utilities. The public-service commissions of the public-land States, which attempt to regulate such utilities, would be put out of commission and their powers bestowed in lump upon the Secretary of the Interior, who, by nature of his location, can know little of local conditions and be in only a slight degree in touch with the great mass of local, State, and municipal consumers. They can not get to him in Washington to attend hearings and make statements of grievances, as now provided for in State and municipal laws and ordinances.

The practical working of this provision will be that in every State or city where there is an efficient local commission which looks after the local public interest and holds the public-service corporations strictly to account, and not to its liking, the corporation that does not like such local regulation under the eyes of the consumer will set up the excuse that its current is interstate, because its plant is combined or coupled up with other plants across the State boundary, as authorized by the combining of the plants.

The result is that instead of the government of the water power and public utilities of a State by a State commission, government by the Secretary of the Interior is substituted.

It has been urged by the authors of the pending bill that if it is enacted into law it will have a tendency to prevent and prohibit combinations and monopolies in the production and sale of electric current. It is quite apparent that it will have a contrary effect, because the hydroelectric trust can conveniently hide behind the inefficient control and regulation of current provided for in this measure.

Mr. FERRIS. Mr. Chairman, how much time does the gentleman from Wyoming desire on his amendment?

Mr. MONDELL. Ten minutes; but I would prefer to have it when we take up the bill the next time.

Mr. FERRIS. I hope the gentleman will consume that time now. Mr. Chairman, I ask unanimous consent that at the expiration of 30 minutes, 10 minutes of which will be consumed by the gentleman from Wyoming [Mr. MONDELL], debate shall close on this section and all amendments thereto. I think we have covered every conceivable phase of it. We reserve only 20 minutes for ourselves, and I understand the gentleman from Wisconsin wants part of that.

Mr. CLINE. Does that mean that we have to stay here for 30 minutes more to-night?

Mr. FERRIS. No.

Mr. STAFFORD. I understand that the chairman will move to rise at the conclusion of the discussion of the gentleman from Wyoming?

Mr. FERRIS. That is correct.

Mr. MONDELL. I do not care to use more than 5 minutes this evening.

Mr. FERRIS. I do not think the gentleman ought to halt the debate.

Mr. FESS. Mr. Chairman, I would like to have 5 minutes.

Mr. STAFFORD. I would suggest that, as the gentleman from Ohio would like to have 5 minutes, at the conclusion of his 5 minutes and of the discussion of the gentleman from Wyoming the chairman move to rise.

Mr. FERRIS. What does the gentleman desire to talk about?

Mr. FESS. I desire to address the committee on this constitutional phase.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that at the expiration of 35 minutes the debate be closed on this section and all amendments thereto, 5 minutes to be given to the gentleman from Ohio [Mr. FESS], 10 minutes to the gentleman from Wyoming [Mr. MONDELL], and 10 minutes be controlled by the gentleman from Wisconsin [Mr. STAFFORD] and 10 minutes by the committee.

Mr. STAFFORD. And the understanding is that we rise at 5 minutes after 5.

The CHAIRMAN. Unanimous consent is asked to close debate upon the amendment in 35 minutes, 5 minutes of that time to be given to the gentleman from Ohio, 10 minutes to the gentleman from Wisconsin, 10 minutes to the gentleman from Wyoming, and 10 minutes to the committee. Is there objection? [After a pause.] The Chair hears none.

Mr. FESS. Mr. Chairman, the one phase of greatest interest to me in the discussion this afternoon is this constitutional phase of the proposed bill. If this water power is to be developed on streams which are navigable or interstate, or if it is to be used as interstate power, although within a State, there is not any doubt about the constitutionality of it; nobody would question it for a moment, because it would be covered by that clause of the Constitution which gives power to regulate commerce, but I understand that much of this proposed development is to be done in public lands owned by the United States, and probably much of it entirely intrastate. That phase of it becomes of interest to me because the chairman of the committee [Mr. FERRIS] stated awhile ago that the Government could do anything that it wanted to on the public lands. That statement is very far-reaching and, I believe, unwarranted. I have been trying to get from the Constitution as I can see it the authority for the development of water power in streams that are wholly within public lands and not interstate, but intrastate.

Mr. FERRIS. Will the gentleman yield?

Mr. FESS. Yes.

Mr. FERRIS. Water power for hydroelectric energy is 24 years old. The Constitution is considerably older than that.

Mr. FESS. Yes.

Mr. FERRIS. And we are confronted with new conditions.

Mr. FESS. I admit that.

Mr. FERRIS. And the courts have passed upon it and our rights and the question of whether we have the power to develop water power in any way we like on our own lands, and we are consuming time on this for nothing, because that is absolutely settled and can not be denied.

Mr. FESS. I do not believe the chairman of the committee ought to take the position on this kind of a discussion of a constitutional phase that we are consuming time for nothing.

Mr. FERRIS. This question is so well settled and so uniformly understood one can hardly conceive of anybody questioning our right to do on our own lands what we want to do.

Mr. FESS. I know; but such a dogmatic statement as just now made by the chairman is not quite what ought to be made in the consideration of a piece of legislation in this House. The most important question is our right as given us by the Constitution, and every Member has a right to be convinced that what is done has the constitutional sanction of the organic law.

Mr. RAKER. Will the gentleman yield?

Mr. FESS. The gentlemen are going to take all of my time. What does the gentleman wish?

Mr. RAKER. I want to know whether the gentleman has read the right-of-way acts passed by this Congress in relation to public lands and the provision for the rules and regulations to be controlled by the Secretary of the Interior?

Mr. FESS. I have read a good deal of what this Government has done in regard to its authority along the lines of Federal relations. I have been a teacher of constitutional law in a university and am fairly familiar with decisions touching this issue. I am not now seeking to be heard for the sake of consuming time, and I am not speaking in the air. Mr. Chairman, I hold that there is not any constitutional sanction for the position that the Government can do as it pleases in public lands within a State, and I doubt your authority for what you are attempting to do here on a stream that is wholly intrastate. The only authority is that particular clause of the Constitution which gives authority to the Congress to deal with Territories in its disposition of public lands, or in the making of rules and regulations governing Territories. But the question of control in the Constitution as there used by the makers did not refer to such matters as we are here discussing. It had nothing to do with the things we are talking about. There were two kinds of land when the Constitution was made—States and Territories. Thirteen were States, and the balance was the Northwest and Southwest Territories, out of which we have carved nine States, five from the Northwest and four from the Southwest. In order to give control over the organization of those Territories, out of which ultimately were carved nine States, this particular clause was put into the Constitution, and had little, if anything whatever, to do with what you are now discussing. The States existed before the Constitution of 1789; also the Territories were recognized before that date. In order to make it possible for a Territory to become a State the ordinance of 1787, which antedated the adoption of the Constitution, gave a plan by which a Territory could become a State, and this clause to which you are referring has reference to that particular Territory, which is the Northwest and the Southwest. I admit that power to operate in a Territory that is acquired must come from this clause; but I think no one will question that there is no power in the Constitution or in Congress that is not delegated by the people, and if there is any power to do what you propose to do it is to be found in the Constitution, either in express terms or by implication. What is not delegated to Congress is reserved to the States. If the Government admits a Territory over which it has plenary powers to the rights of statehood, then it forfeits its powers over such Territory not reserved. It is a serious question whether the Government owns the waters within the State, although lying wholly or partly within that part known as the public domain. At any rate, the Government's authority can not be construed to interfere with the rights of the State unless specifically designated.

To me it is a question of serious doubt whether the Congress can step over into the State under this particular clause to make the rules governing a Territory which applied to the organization of a Territory looking to its admission as a State—whether under that authority you have a right to step over into the State when the State has ceased to be a Territory and do as you please, as you say, without regard to the rights of the States. I seriously doubt that position. I do not believe it is warranted.

Mr. THOMSON of Illinois. Does the gentleman recall the fact that this clause in the Constitution to which he is referring respects not only the territory but also other property of the United States?

Mr. FESS. Other property of the United States, such as, for example, the District of Columbia, lands for navy yards, docks, arsenals, and so forth.

Mr. THOMSON of Illinois. And such as public lands?

Mr. FESS. There were no public lands outside of the territory of the United States at this time, when the Constitution was adopted.

Mr. FERRIS. Mr. Speaker, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FITZGERALD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16673) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes, and had come to no resolution thereon.

EXTENSION OF REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that I may extend my remarks in the RECORD on the shipping bill that passed here a few days since.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to extend his remarks on the shipping bill. Is there objection?

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the enhanced cost of sugar.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. RAKER]? [After a pause.] The Chair hears none.

The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent to extend his remarks in the RECORD on the subject of the enhanced cost of sugar. Is there objection?

There was no objection.

Mr. SMITH of Minnesota. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the workingmen's compensation act.

Mr. FITZGERALD. The rule provides for that, Mr. Speaker.

Mr. STAFFORD. This is on another proposition, and foreign to that.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD on the workingmen's compensation bill. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. FERRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 7 minutes p. m.) the House adjourned until Wednesday, August 19, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, to which was referred the bill (H. R. 16759) to require owners and lessees of amusement parks to furnish drinking water to patrons free of cost, etc., reported the same with amendment, accompanied by a report (No. 1093), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 13219) to provide, in the interest of public health, comfort, morals, and safety, for the discontinuance of the use as dwellings of buildings situated in the alleys in the District of Columbia, reported the same with amendment, accompanied by a report (No. 1094), which said bill and report were referred to the House Calendar.

Mr. GOODWIN of Arkansas, from the Committee on Foreign Affairs, to which was referred the joint resolution (H. J. Res. 311) instructing American delegate to the International Institute of Agriculture to present to the permanent committee for action at the general assembly in 1915 certain resolutions, reported the same without amendment, accompanied by a report (No. 1095), which said joint resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HENSLEY, from the Committee on Naval Affairs, to which was referred the bill (H. R. 17895) for the relief of John Henry Gibbons, captain on the retired list of the United States Navy, reported the same without amendment, accompanied by a report (No. 1096), which said bill and report were referred to the Private Calendar.

Mr. WITHERSPOON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 16823) to appoint Frederick H. Lemly a passed assistant paymaster on the active list of the United States Navy, reported the same without amendment, accompanied by a report (No. 1097), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KEATING: A bill (H. R. 18417) for the relief of certain desert-land entrymen; to the Committee on the Public Lands.

By Mr. GREEN of Iowa: A bill (H. R. 18418) to amend section 447 of the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. VARE: A bill (H. R. 18419) directing the Bureau of Corporations of the Department of Commerce to ascertain the value of contracts entered into by citizens of the United States for supplying foodstuffs, etc., and empowering the President to prohibit the exportation of certain supplies; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT: A bill (H. R. 18420) to authorize the President, with the approval of the Federal Reserve Board, to suspend for a period of three months the act of February 8, 1875, levying a tax upon notes used for circulation by any person, firm, association (other than national bank associations), and corporations, State banks or State banking associations, and for other purposes; to the Committee on Banking and Currency.

By Mr. KEATING: Joint resolution (H. J. Res. 323) amending the Constitution of the United States; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18421) granting an increase of pension to Mary Pross; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 18422) granting a pension to Volney A. Parmer; to the Committee on Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 18423) granting an increase of pension to Benjamin F. Patterson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18424) granting an increase of pension to William Pittman; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 18425) granting a pension to Roena Cartwright; to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 18426) granting a pension to George W. Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18427) granting a pension to James Turnbill; to the Committee on Invalid Pensions.

By Mr. KENNEDY of Connecticut: A bill (H. R. 18428) granting a pension to Olive N. Hazard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18429) granting a pension to William J. Knapp; to the Committee on Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 18430) granting an increase of pension to John A. Kirkpatrick; to the Committee on Invalid Pensions.

By Mr. LONERGAN: A bill (H. R. 18431) granting an increase of pension to Mary Nelligan; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 18432) granting an increase of pension to Samuel D. Adams; to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 18433) granting an increase of pension to Bernard Stiver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18434) granting an increase of pension to Charles Clayton; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 18435) granting an increase of pension to Albert P. Terwilliger; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 18436) granting a pension to John B. Raines; to the Committee on Pensions.

Also, a bill (H. R. 18437) granting an increase of pension to Levi Morris; to the Committee on Invalid Pensions.

By Mr. TAVENNER: A bill (H. R. 18438) granting a pension to Ellen Fate Tuite; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18439) granting a pension to Charles R. Eakins; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of sundry citizens of Cohoes, N. Y., urging relief from the raising of prices on the necessities of life; to the Committee on Interstate and Foreign Commerce.

By Mr. BRODBECK: Petition of 32 citizens of Pennsylvania, against national prohibition; to the Committee on Rules.

By Mr. COPLEY: Petitions of sundry citizens of the eleventh congressional district of Illinois, concerning House joint resolution 282, which relates to Dr. Cook's polar efforts; to the Committee on Naval Affairs.

By Mr. GOULDEN: Petitions of Gustav Kupse and 50 citizens of New York City, inclosing an editorial of the Morgen Herald of New York on "Absolute neutrality"; to the Committee on Foreign Affairs.

By Mr. J. I. NOLAN: Petition of the New Seattle Chamber of Commerce, relative to a general revision of the United States navigation laws; to the Committee on the Merchant Marine and Fisheries.

By Mr. O'SHAUNESSY: Petition of Mary C. Wheeler, favoring the Senate bill to place replicas of the Houden statues of Washington in the United States Military Academy at West Point; to the Committee on Naval Affairs.

Also, petition of the McGregor (Tex.) Milling & Grain Co., favoring the passage of the Pomerene bill of lading bill; to the Committee on Interstate and Foreign Commerce.

By Mr. PETERS: Petition of 50 people of Winterport, Me., favoring national prohibition; to the Committee on Rules.

By Mr. SELDOMRIDGE: Petition of sundry citizens of Colorado, against national prohibition; to the Committee on Rules.

By Mr. SUTHERLAND: Papers to accompany a bill granting an increase of pension to Levi Morris; to the Committee on Invalid Pensions.

Also, papers to accompany a bill granting a pension to John B. Raines; to the Committee on Pensions.

By Mr. WILLIAMS: Petitions of sundry citizens of Illinois relative to House joint resolution 282, to investigate claims of Dr. F. A. Cook to be discoverer of the North Pole; to the Committee on Naval Affairs.

Also, petition of officers of Local Union No. 598, United Mine Workers of America, of Lincoln, Ill., favoring clause exempting labor unions, etc., of the Clayton antitrust bill; to the Committee on the Judiciary.

SENATE.

WEDNESDAY, *August 19, 1914.*

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

Our heavenly Father, we can not be indifferent to the confusion of the world. While we enjoy the peace and prosperity of our own beloved land we can not but be reminded of the fearful consequences and widespread desolation that must follow the conflict across the seas. We lift our hearts to Thee for those nations involved. We pray especially for those who must bear the brunt of the struggle. Grant a speedy and permanent settlement of their difficulties in the way that Thou shalt choose. Unite the interests of men, and hasten the glad era of peace and sympathy and brotherhood, when men "shall beat their swords into plowshares and their spears into pruning hooks, and nation shall not lift up the sword against nation, neither shall they learn war any more." We plead for this in the name of the Prince of Peace. Amen.

The Secretary proceeded to read the Journal of the proceedings of the legislative day of Tuesday, August 11, 1914, when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

DEATH OF MRS. WOODROW WILSON.

The VICE PRESIDENT. The Chair has received a card from the President addressed to the Members of the Senate of the United States, which will be read.

The Secretary read as follows:

The President and the members of his family greatly appreciate your gift of flowers and wish to express their sincere gratitude for your sympathy.

RIVER AND HARBOR IMPROVEMENTS (S. DOC. NO. 565).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 7th instant, information relative to the aggregate amount of money required for the proper maintenance of existing river and harbor projects for the fiscal year ending June 30, 1915, etc., which, on motion of Mr. BURTON, was ordered to lie on the table and be printed.

TRANSFER OF VESSELS FROM COASTWISE TRADE.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Commerce, transmitting, in response to a resolution of the 4th instant, a copy of a letter and inclosure from the collector of customs at Philadelphia and of a telegram from the collector of customs at New York, giving further information as to the coastwise vessels available for foreign trade, which, with the accompanying papers, was ordered to lie on the table.

He also laid before the Senate a communication from the Secretary of Commerce, transmitting, in further response to a resolution of the 4th instant, an additional telegram from the collector of customs, San Francisco, Cal., and a copy of an additional letter from the collector of customs, New York City, N. Y., together with an inclosed letter of the A. H. Bull Steamship Co., relative to vessels now in the coastwise trade which the owners would use in over-sea foreign trade in the present emergency, which, with the accompanying papers, was ordered to lie on the table.

GENERAL EDUCATION BOARD AND CARNEGIE FOUNDATION.

The VICE PRESIDENT laid before the Senate a communication from the Postmaster General, stating, in response to a resolution of the 5th instant, that no employees of the Post Office Department are paid salaries in whole or in part out of funds contributed by the General Education Board of the Rockefeller Foundation and the Carnegie Foundation, which was ordered to lie on the table.

He also laid before the Senate a communication from the Secretary of Agriculture, stating, in response to a resolution of the 5th instant, that there are no employees in the Department of Agriculture whose salaries are paid in whole or in part with funds contributed by the Rockefeller Foundation or the Carnegie Foundation, which was ordered to lie on the table.

He also laid before the Senate a communication from the Secretary of Commerce, stating, in response to a resolution of the 5th instant, that no persons in the Department of Commerce are paid in whole or in part with funds contributed by either the General Education Board of the Rockefeller Foundation or the Carnegie Foundation, which was ordered to lie on the table.

He also laid before the Senate a communication from the Secretary of Labor, stating, in response to a resolution of the 5th instant, that the Department of Labor has no relations whatever with the organizations known as the General Education Board of the Rockefeller Foundation and the Carnegie Foundation, and that no persons in that department are paid in whole or in part with funds contributed by either of these foundations, which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 6116) to amend section 195 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 654. An act to accept the cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park, and for other purposes;

S. 5198. An act to reserve certain lands and to incorporate the same and make them a part of the Pike National Forest; and

S. J. Res. 178. Joint resolution granting authority to the American Red Cross to charter a ship or ships of foreign register for the transportation of nurses and supplies and for all uses in connection with the work of that society.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of South Norwalk, Conn., Washington, D. C., and Ness City, Kans., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Keota and Odebolt, in the State of Iowa; of East Liverpool and Attica, in the State of Ohio; and of Oakland, Cal., Francesville, Ind., Alton, Ill., and Gainesville, Mo., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. CLARK of Wyoming presented a petition of sundry citizens of Douglas, Wyo., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. CULBERSON. I present a letter in the shape of a petition and ask that it may be read.

There being no objection, the letter was read, as follows:

DALLAS, TEX., *August 15, 1914.*

Hon. CHARLES A. CULBERSON,
Washington, D. C.

DEAR SENATOR: Telegraphic advices announce President Wilson's disapproval of the American bankers' plan to float loans for the benefit of belligerent countries of Europe. That is good, and I hope his views will prevail.

Now, induce him to go a step further and place an embargo on the exportation of foodstuffs. You, of course, are fully apprised of the enormous jump in prices of food commodities since August 1. There have been no excessive exportations since August 1, consequently the supply in the United States must be greater to-day than on August 1, and yet prices are steadily advancing, and in advancing have curtailed consumption, further augmenting the supply.

From my viewpoint this Government owes nothing to the foreign nations, but everything to its own people. If an embargo should be placed upon foodstuffs, necessarily the firms who have gathered in the outputs of the farmers will find themselves confronted with the proposition to either hold it at a loss or sell at a fair profit. That they would unload, it seems a fair assumption, since the rate of interest having also advanced they will find themselves unable to cope with an embargo and the dearer money.

In this connection, if you will pardon the suggestion, while the Reserve Board and the Treasury are making every effort to furnish bankers of the country with money, they should also determine the maximum rate of interest it should be let at. Already the bankers in the large cities have raised the rate from 5 per cent to 7½ and 8 per cent. The bankers of Texas, so far as I understand, are holding to their normal rates. How long, though, they can withstand the position taken by the northern and eastern bankers is to be determined. It would be safe to conjecture, however, that as a mere matter of protection to themselves from overdemands they, too, will have to raise their rates. Whatever the case, the fact remains that it is an injustice to the very class the Government is seeking to aid—the producing class and the commercial interests dependent upon it.